

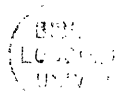
THE POLITICS OF UNION AND CITIZENSHIP: THE EVOLUTION  
OF BRITISH CONSTITUTIONAL POLICY  
TOWARDS MALAYA AND SINGAPORE  
1942 - 1948

A thesis submitted to  
The School of Oriental and African Studies  
in candidacy for the degree of  
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Department of History

by

ALBERT LAU KHOONG HWA

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### ABSTRACT

World War II, by unleashing new forces, had precipitated a reappraisal of British policy towards Malaya; it also afforded British planners an opportunity to rationalise the pre-war structures which had kept Malaya constitutionally disunited and racially divided. Isolated in their offices in Whitehall, Colonial Office officials devised the Malayan Union policy, embracing in a "union" all the Malay States and including, from the Straits Settlements, Penang and Malacca but excluding Singapore, which developed as a separate constitutional entity although the possibility of a future "fusion" with the proposed Malayan Union was not discounted; the new arrangements envisaged also the creation of a form of "common citizenship" that would confer political rights to Malaya's non-Malay population. When the war ended, the British proceeded, as planned, to implement the Malayan Union scheme in April 1946 only to replace it with the Federation of Malaya in February 1948; the provisions for citizenship were also significantly "tightened" by 1948 to include only a smaller number of non-Malays. The decision to scrap the Malayan Union, however, was taken by early July 1946, barely three months after its inception. This study traces the origins of the Colonial Office's plans for "union" and "citizenship", examines the assumptions which had guided British planners and how these had been overturned by post-war developments, and discusses the interaction of historical forces which led eventually to the demise of the Malayan Union and the creation of the Federation in 1948. It analyses also the separate political development of Singapore and the attempts to unite the Island with the Mainland, a process which succeeded, in retrospect, only briefly in 1963 and only then to result in separation again in 1965.

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When I remember Thee on my bed  
I meditate on Thee in the night watches,  
For Thou has been my help,  
And in the shadow of Thy wings I sing for joy.  
My soul clings to Thee;  
Thy right hand upholds me.

Psalm 63: 6-8.

May 1986

A.K.H.L.

## LIST OF ABBREVIATIONS

ACCC	Associated Chinese Chambers of Commerce
ALFSEA	Allied Land Forces, South East Asia
AMCJA	All Malaya Council of Joint Action
BBC	British Broadcasting Corporation
BMA	British Military Administration
CAB	Cabinet Papers
CCAO	Chief Civil Affairs Officer
CJA	Council of Joint Action
Cmd	Command Paper
CO	Colonial Office
CWC	Constitutional Working Committee
DCCA0	Deputy Chief Civil Affairs Officer
FMS	Federated Malay States
FO	Foreign Office
GLU	General Labour Union
HMG	His/Her Majesty's Government
IOLR	India Office Library and Record
JICH	Journal of Imperial and Commonwealth History
JMBRAS	Journal of the Malayan Branch of the Royal Asiatic Society
JSEAS	Journal of Southeast Asian Studies
KMT	Kuomintang
MCP	Malayan Communist Party
MCS	Malayan Civil Service
MDU	Malayan Democratic Union
MIC	Malayan Indian Congress
MNP	Malay Nationalist Party
MPAJA	Malayan People's Anti-Japanese Army

MSS	Malayan Security Service
NEI	Netherlands East Indies
PIJ	Political Intelligence Journal
PMCJA	Pan-Malayan Council of Joint Action
PP	Progressive Party
PREM	Prime Minister's Files
PUTERA	Pusat Tenaga Ra'ayat
SCAO	Senior Civil Affairs Officer
SEAC	South East Asia Command
SOAS	School of Oriental and African Studies
SOE	Special Operations Executive
UMNO	United Malays National Organization
UMS	Unfederated Malay States
WO	War Office

## INTRODUCTION

In one sense, the story of the Malayan Union policy "has been told".<sup>1</sup> The ground was broken in 1967 with the publication of J. de V. Allen's pioneering monograph, The Malayan Union,<sup>2</sup> followed in 1974 by Mohamed Noordin Sopiee's From Malayan Union to Singapore Separation<sup>3</sup> and a major study by A.J. Stockwell: British Policy and Malay Politics during the Malayan Union Experiment, 1942-1948<sup>4</sup> in 1979.<sup>5</sup> British wartime deliberations which spawned the Malayan Union policy have also been considered in two articles published in 1974: Stockwell's "Colonial Planning during World War II: the case of Malaya"<sup>6</sup> and C.M. Turnbull's "British Planning for Post-war Malaya".<sup>7</sup> In another sense, a "reasonably accurate and complete history of the Malayan Union"<sup>8</sup> has yet to be told. As one historian wrote in 1983: "The full details of the considerations which led the Colonial Office to drop the Malayan Union are still not known, as the official records are not yet fully open."<sup>9</sup> Another writer surmised that the full inside story of the rise and speedy collapse of the Malayan Union "may never be told" - "certainly not if the stamps 'destroyed by statute' on certain file jackets in the Public Record

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1. C.M. Turnbull, "British Planning for Post-war Malaya", JSEAS 5, 2 (Sep. 1974), 239.
  2. J. de V. Allen, The Malayan Union, (New Haven, 1967).
  3. Mohamed Noordin Sopiee, From Malayan Union to Singapore Separation: Political Unification in the Malaysia Region 1945-65, (Kuala Lumpur, 1974). (Second Printing 1976)
  4. A.J. Stockwell, British Policy and Malay Politics during the Malayan Union Experiment, 1942-1948, (Kuala Lumpur, 1979).
  5. Other works not touching directly on Malaya but on aspects of British wartime policy include Wm. Roger Louis, Imperialism at Bay: The United States and the Decolonization of the British Empire, 1941-1945, (Oxford, 1977); C. Thorne, Allies of a Kind: The United States, Britain, and the War Against Japan, 1941-1945, (Oxford, 1978); and J.M. Lee and M. Petter, The Colonial Office, War and Development Policy, (London, 1982).
  6. A.J. Stockwell, "Colonial Planning during World War II: the case of Malaya" JICH, 2, 3 (May 1974).
  7. Turnbull, "British Planning ...".
  8. Wong Lin Ken, "The Malayan Union: A Historical Retrospect", JSEAS, 13, 1 (Mar. 1982), 190.
  9. Cheah Boon Kheng, Red Star Over Malaya: Resistance and Social Conflict During and After the Japanese Occupation, 1941-1946, (Singapore, 1983).

Office mean what they say and if no copies survive".<sup>10</sup> It is perhaps not surprising that one reviewer, dissatisfied with the "mythology ... round the subject", urged historians of the Malayan Union to "discover the true answers".<sup>11</sup>

Part of the "mythology" arose no doubt because of the closure of important British official sources at the time when these major works on the subject were undertaken. Published some nineteen years ago, Allen's monograph, which still evokes enthusiastic discussion amongst some contemporary historians of Malaya for its "great insight"<sup>12</sup> about the British experiment that had gone badly wrong, suffers from this admitted deficiency in documentation<sup>13</sup> - partly because the relevant confidential files were then not available for public scrutiny and partly also because he could not disclose what he had seen.<sup>14</sup> As a serious historical study, Allen's otherwise "fascinating" monograph, consequently, "fails ... to throw any more light upon the basic problems of British policy making, to present an entirely satisfactory explanation of official decisions."<sup>15</sup>

Both Sophe's and Stockwell's researches, reflecting their access to documents not seen by Allen, obviously shed more light on British policy towards Malaya during the 1942-1948 period. Relying on newly-opened (but mainly Cabinet) records<sup>16</sup> at the Public Record Office in

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10. R. Heussler, Completing A Stewardship: The Malayan Civil Service, 1942-1957, (London, 1983), p. 96.

11. Wong, "The Malayan Union ...", 184.

12. Ibid., 189. Cheah, for instance, also lauded Allen's "excellent monograph" as "unlikely to be surpassed for its lucid, absorbing presentation and many insights". See Cheah Boon Kheng, "Book Review: A.J. Stockwell, British Policy and Malay Politics During the Malayan Union Experiment 1942-1948", in JMBRAS, 53, 1 (Jun. 1980), 173.

13. Allen himself admitted to Bryson that "there is simply not enough written evidence on some spheres available yet" and that his monograph contained "a lot that is surmise". See Allen to Bryson, 3 Dec. 1964, BAM I/11.

14. Allen wrote, for example, "I have seen some confidential official documents which should have been put away for 50 years which I cannot quote without getting people into trouble and risking getting my monograph suppressed altogether." Ibid.

15. M.R. Stenson, "The Malayan Union and the Historians", JSEAH, 10, 2 (Sep. 1969), 344.

16. Sophe consulted also the CO 865, CO 717 and WO 32 series of files at the Public Record Office.

London and private papers from the Arkib Negara in Kuala Lumpur, Sopiee's book, while providing an engagingly written account of the formation of the Malayan Union and Federation,<sup>17</sup> was nevertheless only partially successful in establishing the main sources for the "evolution" of the Malayan Union policy. Part of the reasons stemmed from Sopiee's almost exclusive use of Cabinet sources.<sup>18</sup> Though useful in throwing light on decision-making at the top, these failed to offer a satisfactory account of official decisions at the departmental level from which the Malayan Union policy originated. As one author put it, Sopiee's study was "successful in elaborating [only] some aspects of the British policy on the Malayan Union".<sup>19</sup>

Published seven years later than Sopiee's work, Stockwell's monograph was understandably more extensively researched than either of his predecessors'. Making use of a wider variety of sources - from Colonial Office to Cabinet sources as well as the Intelligence records of the Malayan Security Service, British Military Administration files and private papers - Stockwell was consequently able to document, with greater precision, the key stages in the evolution of the Union scheme as well as presenting the first documented study of the MacMichael Mission.<sup>20</sup> But partly because of the nature of his research - focusing on both British policy and Malay politics<sup>21</sup> - and partly also because of the unavailability of key official sources (especially from 1946 onwards),<sup>22</sup> Stockwell had been unable to document fully the major constitutional developments which finally led to the formation of the Federation of Malaya. As one author put it, "more thorough documentary researches are still required on how and why fateful decisions were made

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17. See especially his Chapters 2 and 3.

18. Sopiee himself admitted, for instance, that "In analyzing the motivations for the Union policy we shall largely concentrate on the motivations of the War Cabinet", See Sopiee, p. 16.

19. Cheah, "Book Review ...", 173.

20. Wong, "The Malayan Union ...", 187.

21. Here Stockwell made important contributions to our understanding of post-war Malay politics and its relation to British policy. See Wong, "The Malayan Union ...", 190.

22. Stockwell, in this instance, relied mainly on the Creech-Jones Papers, Secret sources and the Malayan Security Service Political Intelligence Journal.



at all the various levels of decision-making."<sup>23</sup>

Apart from the assertion - which no one disputed - that the Malayan Union policy was "Whitehall's invention",<sup>24</sup> more documentation is necessary before we can conclude with certainty the prime motivations behind the new British policy for Malaya. Allen had surmised that the reasons were probably found in the need to prepare Malaya for self-Government as well as the desire for administrative rationalisation.<sup>25</sup> While not disputing Allen's main assertions, Sopheer saw the desire to "create a Malayan consciousness and nationalism" as a "major motive for the Union policy". As for the goal of self-government, Sopheer felt that this was probably related to the "desire to please the United States" but offered no conclusive documentary evidence in support of his claim.<sup>26</sup> Stockwell, however, avoided such theorising altogether and preferred to view the evolution of the Malayan Union policy as a historical process in response to "sets of circumstances".<sup>27</sup> Clearly, the formulation of the underlying principles and assumptions which spawned the Malayan Union policy are still far from certain.

Also uncertain are the identities of the key personalities who "shaped" the Union policy. Historians seemed generally in agreement with Turnbull that the "influence of successive Secretaries of State for the Colonies was marginal", that the War Cabinet and its Committees "did little beyond giving formal approval", that the Malayan Planning Unit<sup>28</sup> (MPU) had "some influence on policy-making, but its major work was concerned with detailed administrative planning", and that the main policy was "formulated by a small group of officials in the Eastern Department of the Colonial Office, headed by Edward Gent".<sup>29</sup> Partly because of his appointment later as Governor of the Malayan Union in April 1946, the assertion that "Gent ... more than anyone else fathered the whole Malayan Union scheme"<sup>30</sup> was also commonly held amongst

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23. Wong, "The Malayan Union ...", 189.

24. Allen, p. vi.

25. Ibid., p. 9.

26. Sopheer, pp. 16-17.

27. Stockwell, p. 21.

28. The formation of the MPU will be discussed in detail in Chapter 2.

29. Turnbull, "British Planning ...", 242.

30. Sopheer, 31.

historians of the Malayan Union. Allen, for instance, surmised that the Union scheme was largely Gent's "creation".<sup>31</sup> Similarly, Sopiee thought that Gent "certainly" played a "much more important role" in the formulation of the new policy.<sup>32</sup> Stockwell also concluded that the "surmise of J. de V. Allen [concerning Gent] has been borne out in my interviews".<sup>33</sup> Surprisingly, however, little documentary evidence has been cited to either sustain or refute such assertions.

Much controversy still surrounds the MacMichael Mission to secure the Treaties with the Rulers.<sup>34</sup> Cheah, for instance, alleged that "behind-the-scenes pressures and arm-twisting" had been used to compel the Rulers to sign. "It is clear", he concluded, "that MacMichael had used, and was authorised to use, coercion to achieve the purpose of his mission."<sup>35</sup> Stockwell, on the other hand, with the advantage of extensive - though not complete<sup>36</sup> - documentation, has partly exonerated MacMichael from intimidating the Sultans: the Special Representative, he argued, was only following Whitehall's orders.<sup>37</sup> As the issue of MacMichael's alleged "threats" was again to figure prominently as a pretext for the repudiation of the Treaties by the Rulers during the early months of 1946, it seems important to clarify - so far as documentary sources are available - MacMichael's real or imagined modus operandi in his dealings with the Sultans. What has not been satisfactorily answered by historians of the Malayan Union is also the question raised by Stockwell: "Britain's Malayan policy hinged on the new treaties. But what would happen if a Ruler refused to sign?"<sup>38</sup>

Though overshadowed by the MacMichael Mission, H.C. Willan's similar tour d'horizon and interviews with the Rulers, which preceded MacMichael's,

31. Allen, p. 2.

32. Sopiee, p. 14.

33. Stockwell, p. 21.

34. The MacMichael Mission will be discussed in Chapter 5.

35. Cheah, Red Star Over Malaya, pp. 276-277.

36. Stockwell, for instance, had been unable to consult MacMichael's notes of his meetings with the Yam Tuan of Negri Sembilan and the Rulers of Perak and Trengganu. See Stockwell, pp. 47-64.

37. Ibid., p. 62.

38. Ibid., p. 49.

had been almost totally neglected in the literature on the Malayan Union. Yet its significance should not be underestimated. As Cheah argued: "In fact, Willan did the preliminary work to pave the way for MacMichael's Mission".<sup>39</sup>

Apart from the published reports of the Working Committee and the Consultative Committee cited in the major works on the Malayan Union, little is known about the actual behind-the-scenes negotiations which finally led to the formation of the Federation.<sup>40</sup> We do not know, for instance, whether the recommendations of the Consultative Committee (non-Malay) were seriously considered by the Colonial Office and, if so, how these were reconciled with the proposals of the Anglo-Malay Working Committee.

Though the British constitutional plans called for a Malayan Union and a separated Singapore, the major works on the subject tended to concentrate mainly on the former and almost completely neglected the latter.<sup>41</sup> Why was Singapore separated from the Union? The answer apparently is still unclear. Allen, for instance, cited strategic reasons as the "most important factor".<sup>42</sup> Sopiee surmised that the desire to preserve Singapore's special entrepot and economic interests was probably an important consideration.<sup>43</sup> Turnbull, however, felt that the separation was "mainly to prevent the traditional resentment of her wealth and power from jeopardising the main issue of a Malayan Union."<sup>44</sup> Using official sources, Stockwell concluded that Singapore was kept apart "because of its functions as a 'free port' and naval base and because its wealth was resented and its power feared on the mainland. Moreover, it was claimed that the problems of urban government were different from those which could arise in the peninsula".<sup>45</sup> Nevertheless, as one historian lamented, "access to documents has not clarified the

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39. Cheah, Red Star Over Malaya, p. 345. A brief account of Willan's mission is given there, pp. 267-271.

40. This is given fuller treatment in Chapters 7-9 below.

41. Brief references, however, could be found in Turnbull, "British Planning", 243, 251-252. Also in her A History of Singapore 1819-1975, (Kuala Lumpur, 1977), pp. 220-223.

42. Allen, p. 26.

43. Sopiee, p. 20.

44. Turnbull, "British Planning", 243.

45. Stockwell, p. 25.

reasons for exclusion".<sup>46</sup> Though the new policy anticipated the future fusion of the two territories, little has been written from the published works about whether merger was seriously considered between 1946 to 1948.

Finally, though the subject of Malayan Union Citizenship formed a major aspect of the new constitutional policy for both the Malayan Union and Singapore, little has been written about British motivations for recommending this form of "common citizenship" which radically broke with the past practice of preserving only Malay political rights. For the first time equality of citizenship rights had been accepted as a cardinal principle of British Malayan policy. Writers on the subject, however, are not all agreed on the underlying rationale behind the fundamental shift in Britain's pre-war "pro-Malay" policy. Allen surmised, for instance, that "anti-Malay sentiments", on the one hand, and Whitehall's "admiration for the Chinese", on the other, significantly influenced the change in policy<sup>47</sup> - an assertion contested by Sopiee who argued that there was little evidence to indicate that "there was a significant desire to punish the Malays or that strong anti-Malay feeling significantly affected the political decision-making."<sup>48</sup> Others like Stenson saw its real significance "in the recognition, however tentative and hesitant, of a situation which the British had consistently refused to acknowledge during the 1930s - the existence of a permanently multi-racial society."<sup>49</sup> The apparent British volte-face in accepting the more restrictive Federal Citizenship in 1948 surprised and disappointed many non-Malays and provoked a strong anti-Federation reaction from amongst sections of non-Malay opinion. The reasons for the change in policy are still largely not known.

Recently opened sources in both the Public Record Office in London and the Arkib Negara in Kuala Lumpur now permit a more comprehensive study of British constitutional policy towards both Malaya and Singapore. This present study is an attempt to augment the preceding ones by

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46. Wong, "The Malayan Union ...", 187.

47. Allen, p. 9.

48. Sopiee, p. 18.

49. Stenson, "The Malayan Union ...", 345.

clarifying in some detail, with newly available sources, aspects of British policy which we have outlined in our discussion. It concentrates mainly on the two fundamental aspects of that "policy" - the questions of "Union" and "Citizenship". At all times, I have kept in mind the observation of the late Professor Wong Lin Ken in his review on the current literature on the Malayan Union in 1982:

... it is ... obvious that much remains to be done before we can have any study approaching a satisfactory history ... The Malayan Union historians have a responsibility ... to establish the complete story.<sup>50</sup>

It is my hope that this study will, in some small measure, contribute towards that objective.

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50. Wong, "The Malayan Union ...", 190.

CHAPTER ONE  
THE ANGLO-MALAY TREATIES AND POLITICAL DEVELOPMENT  
IN MALAYA TO 1941

There is no question at all of altering in any degree, even by a comma, the Treaties which bind us ... and which are charters of the agreements with the Rulers both of the Federated and Unfederated Malay States.

Sir P. Cunliffe-Lister, 14 July 1933.

I

Until the Japanese interregnum in World War II finally destroyed the basis of pre-war British administration, the legal framework for British rule in Peninsula Malaya was to be found in the series of Anglo-Malay Treaties concluded between 1874 and 1930. In the Straits Settlements of Penang, Singapore and Malacca,<sup>1</sup> which were legally British soil and governed as a typical Crown Colony, Britain encountered no juridical difficulties and could legislate by Order-in-Council under the Foreign Jurisdiction Acts of 1890 and 1913. Britain's constitutional linkages with the other Mainland States, however, were less absolutely defined, depending for their legitimacy on the terms of the Treaties reached with the individual Malay Rulers. These, as we shall see, afforded HMG no legal jurisdiction over the Malay States.

Following the Treaty of Pangkor with Perak in 1874,<sup>2</sup> similar, though not identical, agreements were reached between Britain and the Mainland States which provided for British protection and

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1. For an account of the development of the Straits Settlements see M. Turnbull, The Straits Settlements, 1826-67: Indian Presidency to Crown Colony, (London, 1972).
  2. For events leading to the signing of the Pangkor engagement, see C.D. Cowan, Nineteenth-Century Malaya, (London, 1961). See also E. Sadka, The Protected Malay States 1874-1895, (Kuala Lumpur, 1968) and E. Thio, British Policy in the Malay Peninsula, 1880-1910, I, (Kuala Lumpur, 1969).

assistance in each of the Malay Kingdoms.<sup>3</sup> These States, in turn, accepted British paramountcy and control over their external relations, contracting in effect not to negotiate any treaty or engage in any political correspondence with foreign States "without the knowledge and consent" of the British Government. Through the "advice" clauses in the various agreements, Britain's right, as the Protecting Power, to interfere in the internal administrations of the States - by the appointment of a Resident or Adviser to each Sultan and whose advice "must be asked" and "acted upon" in all questions other than those affecting Malay religion and custom - was also safeguarded. But whatever the wording of the various Treaties or the various titles accredited to the British Officer - and whether his stated function was, ostensibly, either to "assist" or to "advise" - it soon became clear that these Officers from the outset found it increasingly necessary, for the sake of administrative efficiency and rationalisation, to assume the unstated right to "administer" the States as well. The Rulers gradually found themselves divested of much of their independence and Britain became in practice the de facto power in Malaya. As one legal expert put it in 1931:

Discounting exaggeration and looking fairly at the position to-day, the jurist can only say that the protecting power is de facto ruling the Federated Malay States and the Malay Rulers are merely registering that rule, the position to-day being de facto, but not de jure, only minimally different from that in a colonial protectorate.<sup>4</sup>

Independence, however, is not equivalent to sovereignty. As a principle of international law, sovereignty denotes, in its purest form, the concept of a "supreme authority" (either an individual or a collective unit) and implied the power to exercise "independence"

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3. A complete set of the Anglo-Malay Treaties can be found in J. de V. Allen, A.J. Stockwell, and L.R. Wright, A Collection of Treaties and Other Documents Affecting the States of Malaysia 1761-1963, (London, 1981) in two volumes. Unless otherwise stated, all future references to the Anglo-Malay Treaties would be cited from this source.

4. R. Braddell, The Legal Status of the Malay States, (Singapore, 1931), p.13.

both internationally and domestically. Paradoxically, inherent in this conception of sovereignty is the possibility that the sovereign State could also impose limits on its own independence without suffering a diminution of its inherent sovereignty.<sup>5</sup> For whereas sovereignty is a quality which cannot be "lost or acquired, eroded or increased",<sup>6</sup> independence bears no such absoluteness since, as Fawcett argues, the mutual independence of States in international law would logically be incompatible with the absolute sovereignty of any one of them.<sup>7</sup> Seen from this perspective, the Anglo-Malay Treaties in no way compromised the de jure sovereignty of the Malay Rulers. Referring to the case of the Duff Development Company Limited V. Government of Kelantan (1924), Viscount Finlay observed, for instance:

It is obvious that for sovereignty there must be a certain amount of independence, but it is not in the least necessary that for sovereignty there should be complete independence. It is quite consistent with sovereignty that the sovereign may in certain respects be dependent upon another Power; the control, for instance, of foreign affairs may be completely in the hands of a protecting Power and there may be agreements or treaties which limit the powers of the sovereign even in internal affairs without entailing a loss of the position of a Sovereign Power.<sup>8</sup>

It could be argued, however, that at a certain point it may become mere formalism to assert that the placement of such strict limitations on the independence of States by treaty do not in fact constitute an infringement of sovereignty. For Fawcett, at least, Finlay's statement cited above appeared somewhat "surprising". Through political weakness, the protected State may be so trapped in a dependent relationship with the protecting power that independence becomes largely a "legal shell" - "a mere diplomatic artifice".<sup>9</sup> In such a situation,

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5. L. Oppenheim, International Law: A Treatise, 4th Ed., (London, 1928), p. 135 and 250.

6. F.H. Hinsley, Sovereignty, (London, 1966), p. 1; cited in A.J. Stockwell, British Policy and Malay Politics during the Malayan Union Experiment 1942-1948, (Kuala Lumpur, 1979), p. 74.

7. J.E.S. Fawcett, The British Commonwealth in International Law, (London, 1963), p. 90.

8. Ibid., p. 90.

9. Ibid., p. 91.



sovereignty, shorn of its quintessence, represented no more than "hollow sovereignty".<sup>10</sup> But, in the Malay States, the latter formulation again could not be vigorously applied. For although the Anglo-Malay Treaties ceded to Britain, through the residential system, wide advisory and administrative latitude in the internal affairs of the Malay States, these did not detract from the exclusive jurisdiction over the internal administration of the States enjoyed by the Sultans as they represented only independence surrendered to Britain for the governance of what was essentially an alien political framework that had been superimposed onto - but still distinguished from - the indigenous political structures of the Malay States. Since the latter structures depended on a system of Malay customary prerogatives (adat) - "a system which was Malay custom"<sup>11</sup> - the very subject excluded by treaty from British interference - the sovereignty of the Rulers remained very much intact. This distinction was made in the Kelantan Treaty of 1910 when HMG undertook not to interfere with the "internal administration" of the State or to curtail the "administrative authority" of the Ruler.<sup>12</sup>

The question of the status of the Malay States and their Rulers had also been decided in a number of cases. In Mighell V. The Sultan of Johore (1894), when the issue of the Ruler's immunity as a sovereign was raised in the English court, it was ruled that, although the Sultan by treaty had bound himself not to exercise some of the rights of a sovereign Ruler, this did not "deprive him of his character as an independent sovereign". In Duff Development Company Limited V. The Government of Kelantan (1924), the House of Lords similarly upheld that the sovereignty of Kelantan and its Ruler was not intended to be qualified by the terms of the Treaty. In Pahang Consolidated Company Limited V. State of Pahang (1933), the Privy Council summarised the constitutional position in Pahang as follows: subject to the limitations which the Sultan had from time to time imposed upon himself, he remained "an absolute ruler in whom resides all legislative

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10. G. Schwarzenberger, International Law, I, (London, 1957), p. 122.

11. J.M. Gullick, Malaysia, (London, 1969), p. 54.

12. See articles 5 and 8 in Kelantan Treaty of 22 Oct. 1910 printed in Allen et al., pp. 221-222.

and executive power."<sup>13</sup>

That the Sultans were sovereign implied that Britain could do nothing in these States contrary to the terms of the existing Treaties - and that if she desired to do so she must negotiate new ones. As W. Ormsby-Gore, the Under-Secretary of State for the Colonies, put it in 1928: "Our position in every State rests on solemn treaty obligations .... We have neither the right nor the desire to vary this system of government or to alter the type of constitution or administration that now obtains."<sup>14</sup> This, as we shall see, was to prove one of the major stumbling blocks to British efforts to integrate Malaya both administratively and racially. British adherence to the Treaty system ensured that by 1941 Malaya remained constitutionally and emotionally very much divided.

## II

Although the limits of British expansion in Malaya had been reached in the decade before World War I, Britain had never been able to integrate the various autonomous Malay Kingdoms into a unified whole. Historically, attempts to unite separate States had often been subsumed under two centralizing models - Federation and Union.<sup>15</sup> Both models, however, were technically inoperable in Malaya without some cession of jurisdiction to HMG - a constitutional adjustment which would undermine the sovereignty of the Malay Rulers. In a constitutional "Union", for instance, member States would become "indissolubly combined" under a central supreme authority, their identities subsequently "merged" into that of the common State, and their sovereignty pooled to form one new sovereignty covering the whole of the territories.<sup>16</sup> Without a full surrender of sovereignty by the Rulers, a constitutional Union was,

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13. See (1984) 1 Q.B. 149; (1924) A.C. 797; and (1933) M.L.J. 247-248, cited in Ahmad bin Mohd. Ibrahim, Towards a History of Law in Malaysia and Singapore, (Singapore, 1970), pp. 45-47.

14. Ormsby-Gore, Report of Visit to Malaya, Ceylon and Java, 1928. Cmd. 3235, (Dec. 1928), p. 17.

15. Oppenheim, p. 175.

16. W.E. Hall, A Treatise on International Law, (Oxford, 1924), p. 26.

therefore, impossible. Federation differed from the Union in that State autonomy would be carefully preserved while some defined powers would be devolved by the States to a Central Authority concerned with purely central subjects. Theoretically, the imposition of a Federal system in Malaya was no less problematical since the conception of a Central Authority, exercising jurisdiction throughout the Peninsula, would be impossible unless the Rulers could be persuaded to "surrender to the King such jurisdiction as would be necessary for him to pass the constitution by Order in Council under the Foreign Jurisdiction Act."<sup>17</sup> The extension of the latter Act to the Malay States - by which HMG would be empowered to exercise jurisdiction "in the same and as ample manner as if Her Majesty had acquired that jurisdiction by the cession or conquest of territory"<sup>18</sup> - would, on the other hand, seriously undermine both the status of the Malay States and the majesty of their Rulers.

The Colonial Office found no solution to its conceptual dilemma. The course which the Colonial Office found itself able to accept - a loose "Federation" within the Treaty framework - only skirted the conceptual difficulties which it had failed to resolve. Thus, in 1895 and again in 1909, British attempts to encroach upon the Treaty system from within by presenting the Rulers with a fait accompli in the Federation and the Federal Council respectively, failed once HMG evaded the correct juristic position. The Treaty of Federation of 1895, by which the four States of Perak, Selangor, Pahang and Negri Sembilan were constituted into the Federated Malay States (FMS), became, in the words of one writer, "a masterpiece of loose and casual drafting".<sup>19</sup> The Treaty made no attempt either to establish a Central Authority or a division of powers - for indeed it could not - while its last clause expressly restated the correct Treaty position by preserving all former State rights.<sup>20</sup> Thus, as one FMS legal adviser

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17. "Note of Conference at the Colonial Office", 16 Mar. 1931, CO 717/76 no. 72483.

18. Article 1 of the Foreign Jurisdiction Acts 1890 and 1913, cited in M. Wight, British Colonial Constitutions, (Oxford, 1952), p. 550.

19. R. Emerson, Malaysia: a study in Direct and Indirect Rule, (Kuala Lumpur, 1964), p. 137.

20. The clause read: "Nothing in this Agreement is intended to curtail any of the powers or authority now held by any of the above-named Rulers in their respective States, nor does it alter the relations now existing between any of the States named and the British Empire." See Allen et al., II, p. 50.

put it: "There can be no federation without a surrender of some State rights, and the term Federation ... is a misnomer."<sup>21</sup> Though, in practice, the new Resident-General, together with the Residents, administered the FMS, in theory, there was "no word [in the Treaty] of control or of any change in the constitutional position" for the Treaty itself conveyed no power of control to the Resident-General.<sup>22</sup> Admittedly, a system which shrouded the actuality of power but yet permitted HMG to exercise the form of power was not inexpedient from the British viewpoint. Nevertheless, as one FMS legal adviser remarked, such a system "could not last" for it was "bound to prove a fruitful source of trouble."<sup>23</sup>

While representing a more definite centralising attempt by the Colonial Office to put the FMS constitution on a more federal footing, the Agreement for the establishment of the Federal Council in 1909; nevertheless, met with the same legal constrictions which had hampered the Federation Treaty before. Like the latter, it was "juristically speaking, an almost hopeless document".<sup>24</sup> Although the Agreement adequately provided for a division of legislative powers in the case of a conflict of laws - giving all State legislation "full force and effect" except when they conflicted with laws passed by the Federal Council - it was unable to confer any legislative power to the Federal Council. While some subjects were specifically enumerated as belonging "exclusively" to the State Councils, no complementary list was stated as reserved to the Federal Council.<sup>25</sup> Observed the Colonial Office's legal adviser, W.S. Gibson: "The power of legislation has been exercised without being questioned since 1909, but the authority for its exercise, while perhaps a matter of legitimate reference, is indirect and implied ... It seems therefore unfortunate that the justification for the exercise of one of its

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21. Memo. by W.S. Gibson, n.d. CO 717/76 no. 72483.

22. Ibid.

23. Ibid.

24. Emerson, p. 147.

25. The inference that residual subjects would be devolved to the competence of the Federal Council was, of course, another possible interpretation, but this would represent "a reversal of the general practice in Federal constitutions ... [whereby] powers delegated to the national government are strictly defined and all powers not so delegated remain to the States." Memo. by Gibson, n.d., CO 717/76 no. 72483.

main functions should be a matter of inference and implication only."<sup>26</sup> As in the 1895 Treaty, the 1909 Agreement preserved all State rights: nothing, it was affirmed, was intended to curtail any of the powers or authority then held by the Rulers in their respective States.<sup>27</sup> If this was construed literally, then the document would become "a nullity. The Rulers cannot set up a Federal Legislature without curtailing their own powers. If legislative power has not been given to the Federal Council, the enactments of the Council are null and void."<sup>28</sup> The 1909 Agreement was therefore "not a satisfactory constitutional document, being incomplete, obscure and self contradictory."<sup>29</sup>

Without legal force, British power to effect fundamental constitutional changes in the Unfederated Malay States (UMS) was also curtailed and Britain was unable to induce the latter to join the FMS in an enlarged Federation. The transfer of the four northern States of Trengganu, Kelantan, Kedah and Perlis from Siamese to British hands in 1909 threw open the possibility of a larger confederation including these latter States and Johore (which had remained outside the FMS). But although Britain finally secured the agreement of the UMS Rulers to accept British Advisers along the lines of the FMS Residents, the UMS nevertheless retained a large measure of their autonomy. Jealous of their status the UMS Rulers had no desire to merge with the less autonomous FMS. Thus, both the Kedah and Perlis Treaties included an undertaking from HMG "not [to] merge or combine" these States with any other States or with the Straits Settlements without the written consent of the respective Sultans in Council.<sup>30</sup> In Kelantan, Britain also bowed to the Raja's wishes and reaffirmed his "administrative authority" and undertook "not to interfere with the internal administration of the State of Kelantan."<sup>31</sup> Johore and Trengganu, on their

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26. Ibid.

27. This clause is almost identical to that in the Federation Treaty. See Allen *et al.*, II, p. 55.

28. Memo. by Gibson, 2 Apr. 1932, CO 717/91 no. 92344.

29. Memo. by Gibson, n.d., CO 717/76 no. 72483.

30. See articles 3 and 5 of both the Kedah Treaty of 1 Nov. 1923 and the Perlis Treaty of 28 Apr. 1390, printed in Allen *et al.*, I, pp. 175 and 421.

31. See articles 5 and 8 in Kelantan Treaty of 22 Oct. 1910 in *Ibid.*, pp. 221-222.

part, framed constitutional safeguards restricting the Rulers' power to enter into agreements prejudicial to the integrity of their States.<sup>32</sup>

Thwarted from their efforts to unite Malaya, British officials during the 1920's and 1930's like Sir L. Guillemard (High Commissioner, 1919-1927) and Sir C. Clementi (High Commissioner, 1930-1933) sought alternatively a policy of "Decentralisation" by attempting to devolve more power to the States and their Rulers in the hope of lulling them into voluntarily accepting the rationale for new treaties and further centralisation.<sup>33</sup> Seen as a prelude to further centralisation, decentralisation, however, had one major flaw: restoring power to the Rulers only reinforced their separatist tendencies and there was little incentive for the Rulers to voluntarily federate. The expected recentralisation never materialised. Instead it morally committed the Colonial Office to continue decentralisation as the central strategy for the attainment of the objective of a unified Malaya. As Sir Samuel Wilson, the Permanent Under-Secretary of State for the Colonies, was impelled to declare after his visit to Malaya towards the end of 1932 to investigate the decentralisation proposals:

... it seems clear that the maintenance of the position, authority, and prestige of the Malay Rulers must always be a cardinal point in British policy ... His Majesty's Government have no intention of requiring the Ruler of any Unfederated State to enter against his will into any kind of Malayan League or Union.<sup>34</sup>

If British officials were eventually convinced that decentralisation

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32. See article 15 of Johore Constitution (1895) and section 14 of Trengganu Constitution of 1911. See Allen, et al., I, pp. 84-85 and 479.
  33. Guillemard envisaged decentralisation as a tactic to "loosen the knot of the existing close Federation, and prepare the way for a wider loose-knit union of all the Malay States." Clementi, however, wanted to go further and sought not only to loosen the knot of Federation but also the "complete dissolution" of the latter, the revision of treaties, and the substitution of a "new confederation which all the Rulers and the Straits Settlements will be prepared to join". See memo. by J.M. Martin, 14 Oct. 1930, CO 717/76 no. 72483 and minute by J.M. Martin, 26 Nov. 1930, Ibid. For an illuminating account of the decentralisation policies in the 1920's see Yeo Kim Wah, The Politics of Decentralisation, (Kuala Lumpur, 1982).
  34. Sir S. Wilson, Visit to Malaya, 1932, Cmd. 4276, (Mar. 1933), pp. 12-13.

was a "retrograde measure", "wasteful and faulty", they nevertheless kept these reservations to themselves. Whatever his private feelings, Sir Shenton Thomas, Clementi's successor, continued to uphold the official policy in public and private until the outbreak of war. During his internment by the Japanese, Thomas, however, wrote a lengthy memorandum highly critical of the pre-war decentralisation policy, describing the latter as "extravagant, dilatory and discriminative" and "so obviously impossible as an efficient system of Government."<sup>35</sup>

Thomas was not alone. Throughout the inter-war years, a number of officials in the Colonial Office had already argued that the answer to HMG's dilemma was to be found in greater, not lesser, centralisation - even if that meant negotiating new treaties with the Rulers ceding jurisdiction to HMG. J.A. Calder, for instance, referring to the FMS, asserted: "The practicable course seems to be to turn the present Federation ... into a real Federation with a rigid division of powers and allocation of subjects between the State and Federal Governments ... in time the forces making for unity in the Peninsula would probably bring in the Unfederated States."<sup>36</sup> If HMG chose to do so, the legal encumbrances could be easily circumvented. Indeed, as the paramount power, Britain could legitimately "exercise the functions of paramountcy beyond the terms of Treaties in accordance with changing political, social and economic conditions."<sup>37</sup> That without new treaties Britain would otherwise find herself in an untenable political position vis-a-vis the Rulers remained potentially very real: "An obscure and contradictory agreement," warned W.S. Gibson, "may stand for a time by tacit consent. The parties may not realise or wish to assert their rights. But when the time comes and the Rulers point to the letter of the Agreement ... it will not be easy to answer them."<sup>38</sup>

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35. Sir S. Thomas, "Suggestions on Post-War Malaya", 29 Feb. 1944, CO 273/677 no. 50984.

36. Minute by Calder, 1 Dec. 1930, CO 717/76 no. 72483.

37. Minute by Calder, 13 Apr. 1931, CO 717/81 no. 82395. Emphasis mine.

38. Memo. by Gibson, n.d., CO 717/76 no. 72483.

## III

By the early decades of the twentieth century, Malaya had also been transformed from a collection of Malay States into a politically significant "plural society". While the Malays formed the majority race in 1911 with 53.8 per cent of the population, they were already outnumbered by 1931 and by 1941 formed only 41 per cent of the population.<sup>39</sup> Of the immigrant races, the Indian population remained fairly stable around 14 per cent but the Chinese community grew from 34 per cent in 1911 to 43 per cent by 1941, replacing even the indigenous Malays as the dominant racial group. In the Straits Settlements, Chinese formed a clear majority. In the FMS, Chinese outnumbered the Malays in Perak, Selangor and Negri Sembilan and only in Pahang did the Malays outnumber the other races. Taken as a whole, Chinese still predominated as the main racial category in the FMS, forming some 44 per cent of the population with the Malays taking up only 33 per cent in 1941. The Malays formed a clear majority only in the UMS with 66 per cent of the population in 1941; Chinese predominated only in Johore. Although a large portion of the immigrants were transients there was nevertheless a growing trend towards permanent settlement in the country. As indicated by the 1931 census report, about one-third of the Chinese and one-fourth of the Indians were locally born.

The emergence of a plural society, and the presence of an economically preponderant and majority non-Malay community, by the early 1930's ensured that, while Malay rights could not be neglected, those of the Chinese and Indians could not equally be ignored. Partly in reaction to the pro-Malay bias of the decentralisation policy, partly provoked by heightened inter-communal competition as a result of the economic depression, some local-born Chinese by the early 1930's were already agitating for more rights, if only to ensure that their interests and welfare would not "suffer" as a result of unfair "discrimination". Sir Samuel Wilson, who visited Malaya at the height

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39. The figures are compiled from M.V. del Tufo, Malaya: A Report on the 1947 Census of Population, (London, 1949) and Appendix II and III in Victor Purcell, The Chinese in Malaya, (Kuala Lumpur, 1967). Large-scale, initially unrestricted, immigration of Chinese and Indians had been encouraged by the British authorities for economic reasons, mainly to work the tin mines and rubber estates.



of the decentralisation debate in 1932, reported, for instance, that his discussions with the representatives of the non-Malay communities "left me under no illusion as to the anxiety which they feel":

Those who have been born in Malaya themselves, or whose children have been born there, call attention to the fact that they have acquired great interests in the land of their adoption and have contributed in no small degree to its prosperous development. They state that in a great many cases those concerned have never seen the land of their origin and they claim that their children and their children's children should have fair treatment ...<sup>40</sup>

Politically, the continual denial of rights to the Chinese was also a negative policy. Without legal jurisdiction over the local Chinese community, Britain would have little diplomatic control over the possibility of the Chinese Government actually interfering in the internal affairs of her overseas nationals. The Chinese nationality law of 1929 had already made it clear that persons of the Chinese race wherever born were considered as, technically, subjects of China. Although, in theory, it was possible for a Chinese to be "denationalised", in practice, it was an "almost impossible task" for him to do so because of legal obstacles placed before him by the Chinese Government.<sup>41</sup> Thus, as one British official put it, "[T]he Chinese Consular Representatives in Malaya will have a legal claim, if at any time the Chinese desire to exercise it, to jurisdiction in Malaya over Chinese natives in the Malay States."<sup>42</sup> It was, therefore, "desirable that our claim to give protection to the FMS Chinese ... should not be successfully disputed by the Government of China."<sup>43</sup>

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40. See Cmd 4276, p. 26.

41. Minute by Gent, 7 Oct. 1941, CO 323/1626 no. 2255/3. An applicant for denationalisation, for instance, was expected to furnish details of the birth-place of his ancestors who had emigrated from China to Malaya, including the house number in the street or village in which the latter were born. None of these particulars was readily ascertainable. He must also secure at least two mercantile guarantors to testify that he had no military service liabilities since, under article 12 of the Chinese Law of Nationality, denationalisation could be prohibited for anyone "who has attained military age, is not exempted from military service, and has not yet served in the Army." See Thomas to MacDonald, 3 Aug. 1935, CO 825/19 no. 55020.

42. Minute by Gent, 7 Oct. 1941, CO 323/1626 no. 2255/3.

43. Minute by Gent, 21 Jan. 1936, CO 323/1262 no. 30330/3.

The problem was not immediately apparent in the Straits Settlements since a person born in the Colony automatically acquired the status of a British subject. It also did not especially affect the Indians. Since most Indians hailed from south India, and particularly from the Madras Presidency, they were almost entirely British subjects and the question of their status did not immediately arise. In the Malay States, however, the absence of a nationality enactment left undefined the status of the large Chinese community. For the Colonial Office it was clear that the problem of resolving the question of non-Malay status and rights could not be indefinitely avoided or postponed. By the latter half of 1931, it began seriously contemplating a solution to this "horribly complicated subject".<sup>44</sup>

Writing to the FMS High Commissioner, Sir Cecil Clementi, in October 1931, the Colonial Secretary, J.H. Thomas, inquired about the possibility of enacting a nationality law that would maintain that Malayan-born Chinese were British Protected Persons whose status would take precedence over their status as Chinese nationals while they were in Malaya.<sup>45</sup> Replying in March 1932, Clementi advised Thomas' successor, Sir Philip Cunliffe-Lister, that such legislation could not be successfully effected since, under international law, a person of dual nationality could still affirm one nationality and renounce the other. Malayan-born Chinese could still, therefore, renounce their Malayan nationality and claim Chinese protection.<sup>46</sup> The Foreign Office, when consulted, agreed that it would be "inadvisable" to enact legislation that contravened international nationality precepts but submitted that it was unlikely that many local-born Chinese would actually renounce their Malayan nationality since they would then legally "become aliens in Malaya and could be expelled if their conduct was unsatisfactory".<sup>47</sup> But while concurring that Chinese renunciation was "improbable", Clementi, nevertheless, warned that any attempt to impose such a status on the Chinese might be counter-productive and might provoke them, under certain circumstances, to exercise the option of their dual nationality and "regard themselves as Chinese nationals rather than as subjects of the Ruler of the particular State in which they happened to have been

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44. Minute by Clauson, 9 Aug. 1930, CO 323/1080 no. 70328.

45. Thomas to Clementi, 8 Oct. 1931, CO 323/1161 no. 81495.

46. Clementi to Cunliffe-Lister, 3 Mar. 1932, CO 323/1177 no. 90297.

47. G.R. Warner (FO) to R.V. Vernon, 1 Jun. 1932, Ibid.

born."<sup>48</sup>

At no stage in the discussion was there any doubt as to whether the Chinese born in the Malay States were, in fact, subjects of the Rulers or that their status as British Protected Persons was derived other than from the fact of their being subjects of the local Rulers. British nationality policy in the FMS, derived from the concept of jus soli, had always assumed that local-born persons were subjects of the Protected States and thereby accorded British Protected Person status. This position, as Clementi saw it, was "not unsatisfactory as it stands." But as the Colonial Office considered it important to press for finer distinctions, Clementi opined that the Rulers would eventually have to be consulted as to whom they would regard as their subjects and "there can be no doubt that Chinese persons ... will not be so regarded by them" and any proposal to legislate with a view to making them such would be "wholly unacceptable to the Rulers". If legislation was enacted, and it was determined that the Chinese were legally not subjects of the Rulers of the State in which they were born, then "they will become aliens and it will presumably be necessary to consider whether British Protection can still be afforded to them."<sup>49</sup> As it turned out, if the Chinese were disinclined to become subjects of the Rulers, neither were the Malay Sultans prepared to accept them as their subjects since "by religion and race the latter are alien people in the eyes of the Mohammedan Malays."<sup>50</sup>

In this connexion, the Anglo-Malay Treaties were not "particularly helpful"<sup>51</sup> in determining precisely who were regarded as British Protected Persons as they dealt primarily with physical rather than diplomatic protection. The Pangkor Treaty, for instance, mentioned only that "no efficient power exists for the protection of the people"<sup>52</sup> but left the latter undefined. In a memorandum to Clementi in January 1934, the Legal Adviser, C.G. Howell, pointed out that Government despatches, similarly, did not use any uniform or exact terms to refer to British Protected Persons who were variously described as "natives" of the FMS or

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48. Clementi to Cunliffe-Lister, 29 Nov. 1932, Ibid.

49. Clementi to Cunliffe-Lister, 15 Feb. 1934, CO 323/1262 no. 30330/3.

50. Minute by Gent, 21 Jan. 1936, Ibid.

51. Memo. by Howell, 22 Jan. 1934, Ibid.

52. See Allen et al., I, p. 390.

"subjects of the Rulers". It was, therefore, not possible to arrive at any exact conclusion "as to the persons referred to", although it was "improbable that the word extended to persons who did not profess Islam".<sup>53</sup> The FMS Secretary for Chinese Affairs, A.B. Jordan, in another memorandum to Clementi in February, however, referred to the Sri Menanti Treaty of June 1887 in which were found the following words: "that no grant of concession shall be made to other than British Companies or persons of the Malay, Chinese, Indian or other Oriental races, not being subjects of any non-Oriental nations, without the assent of the Governor of the Straits Settlements".<sup>54</sup> He interpreted these words to imply that Chinese, Indians and others of Oriental race who were not subjects of Occidental States "are to be treated in the same way as Malays". Jordan concluded that, whatever might be the legal position of the non-Malays, it was of the "greatest importance ... that it should be clearly admitted that non-Malays born in the Federated Malay States are British protected persons."<sup>55</sup>

In the aftermath of the world depression, the Colonial Office was understandably wary about pressing the issue either too fast or too hard. The outlook of both Malays and non-Malays, observed Edward Gent, a Principal in the Colonial Office, "is not yet restored to a normal condition after the depression" and the timing was inopportune to "press for definitions on this subject". He counselled that "when nerves are less on edge and when money-making absorbs the whole attention" it might be possible to reopen the subject.<sup>56</sup> The issue, as Gent warned in a later minute, "is one of the potentially dangerous subjects from which racial troubles might start if there is any premature pressure."<sup>57</sup> In the meantime, it was desirable to maintain the status quo and include locally-born Chinese under British protection. But while the Colonial Office was quite clear about the end objective of securing nationality legislation for all the Malay States, it was still uncertain about how to bring that about. Since Britain possessed no jurisdiction in the Malay States, laws to define the nationals or subjects of those States could only be enacted by the local Rulers.

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53. Memo. by Howell, 22 Jan. 1934, CO 323/1262 no. 30330/3.

54. Memo. by Jordan, 2 Feb. 1934, CO 323/1262 no. 30330/3.

55. Ibid.

56. Minute by Gent, 8 May 1934, Ibid.

57. Minute by Gent, 7 Jun. 1935, Ibid.

In late May 1935, the Foreign Office recommended two alternative methods to solve the Colonial Office's legal dilemma. As an initial measure, pressure could be applied on the Rulers to approve the necessary legislation. It could be firmly explained that unless local subjectship was conferred on the locally-born Chinese, the latter would have to be regarded as aliens "under the legislation which is eventually enacted" - a status which would entitle them to the diplomatic protection of the Chinese Government. It was, therefore, to the Rulers' advantage to adopt the principle of jus soli in their nationality law, even if this involved making a number of Chinese their subjects. A second approach was for HMG to unilaterally confer the status of British Protected Persons on the Chinese even if they were not considered subjects of the Rulers by means of an Order-in-Council under the Foreign Jurisdiction Act. Of the two suggestions, the Foreign Office found the latter "more complicated and less desirable".<sup>58</sup> The Colonial Office, however, thought differently. To Gent, the second proposal was "so precisely the solution which would satisfy both Chinese and Malay States that I feel sure that we ought to make quite certain that it cannot be contemplated."<sup>59</sup> Gent feared that the first course could only increase racial tensions as both Malays and Chinese had "no use for the solution ... which make the Chinese subjects of some Malay Rulers." It would be better, he advised, "if we can drop that threat".<sup>60</sup> True, the Rulers could be "advised" under the Treaties to enact the new nationality laws but what if they refused? "I fear," wrote H.R. Cowell, "that we should not be in a position to overrule their objections, since they might regard any such matter as one of 'Malay religion and custom', in respect of which they would be under no obligations to accept the advice of the Residents".<sup>61</sup>

Upon further inquiry addressed to the Foreign Office in July 1935,<sup>62</sup> the second option was also found to be impracticable. An Order-in-Council could only be applied to territories where Britain already possessed legal jurisdiction. It appeared that the Foreign Office did

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58. G.N.M. Bland (FO) to CO, 20 May 1935, CO 323/1262 no. 30330/3.

59. Minute by Gent, 7 Jun. 1935, Ibid.

60. Ibid.

61. Cowell to Beckett, 20 Feb. 1936, Ibid.

62. Cowell to Beckett, 8 Jul. 1935, Ibid.

not fully appreciate the legal inhibitions that hampered the Colonial Office's ability to act: "Is it true," inquired the Foreign Office's legal adviser, "that His Majesty has no jurisdiction whatever in the Malay States? ... [D]oes he not possess any jurisdiction, even a scintilla of jurisdiction in these States at all?"<sup>63</sup>

Gent, in the meantime, had been giving serious thought to the Foreign Office's proposals. In January 1936, he came up with his own modified set of proposals which incorporated some aspects of the Foreign Office's plans. To solve the Malay side of the problem, Gent suggested that laws could be enacted in each of the Malay States describing the categories of people who would be admitted as "subjects" of the Rulers. These would presumably include those of Malay race and Mohammedan religion but exclude the Chinese as a concession to the Rulers. To solve the Chinese side of the question, Gent proposed asking the Rulers, in turn, to give London a limited grant of jurisdiction that would enable the Government to make an Order-in-Council declaring those Chinese born and resident in Malaya as British Protected Persons. This could be justified to the Rulers by emphasising that, in order to resist Nanking's ability to interfere with the local Chinese, it was imperative to establish clearly London's "superior authority" over the Chinese Government and this could only be done by according them the "indisputable status" of British Protected Persons.<sup>64</sup>

When consulted again in February 1936, the Foreign Office agreed that it was a feasible proposal.<sup>65</sup> Replying, the legal adviser opined that "If a Malay ruler legislates to the following effect the proposed scheme might work: 'The following are nationals of Johore - (1) all Johore subjects and (2) all Johore protected persons' - this being followed by a definition of the qualification for (1) and (2)."<sup>66</sup> A further discussion was held in May 1936 between Colonial Office and Foreign Office representatives and A.B. Jordan, then on furlough in London, who thought that Gent's proposal was a satisfactory solution to the difficulty and hoped that it could be implemented as soon as possible "as cases were constantly occurring in which the Chinese consular

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63. Beckett to Cowell, 12 Aug. 1935, CO 323/1262 no. 30330/3.

64. Minute by Gent, 21 Jan. 1936, Ibid.

65. Cowell to Beckett, 20 Feb. 1936, Ibid.

66. Beckett to Cowell, 9 Mar. 1936, CO 323/1364 no. 2255/3.

authorities endeavoured to interfere in the affairs of Malaya-born Chinese".<sup>67</sup> In August 1936, the Colonial Office accordingly instructed the new High Commissioner, Sir Shenton Thomas, to ascertain the views of the Rulers on the possibility of enacting the State nationality legislation and the formal grant of special jurisdiction to HMG.<sup>68</sup>

Replying in June 1939, Thomas reported that he anticipated difficulties as it was "not easy to see how anyone can prove that he - or she - is of Malay race" and therefore entitled to become a "subject" of the Ruler. Moreover, if State nationality was dependent on adherence to the Islamic religion, the "unlikely" event could also arise in which a Malay who renounced the Muhammadan religion would lose his nationality. Thomas suggested that the question of State nationality should be left for future review and that "a simple Federal Bill" be enacted instead to the effect that any person who was born within the FMS and whose father was at the time of birth of Asiatic race but not a British subject would be entitled to receive British protection. This Bill would be wide enough to apply also the Malays who were de facto subjects of the Rulers.<sup>39</sup>

No action was taken on Thomas' despatch until August 1941, over two years later. With the outbreak of the European war, the despatch, together with a number of other nationality papers, were put away for review after the war. By then, the High Commissioner's despatch had waited for so long that it was doubtful if it was worth pursuing the proposed legislation until after the war. Turning to Thomas' perceived difficulties with regard to the definition of "subjectship", Gent thought that he had missed the point altogether. "We need not be troubled by the suggested difficulties," he minuted, "Our concern is with the Chinese." Gent was also unhappy with the idea of enacting "a simple Federal Bill":

One would have thought such a surrender of jurisdiction would require a definite formal Agreement between the Rulers concerned and the High Commissioner representing H.M.

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67. Minute by W.J. Biggs, 9 May 1936, CO 323/1364 no. 2255/3.

68. Ormsby-Gore to Thomas, 10 Aug. 1936, Ibid.

69. Thomas to MacDonald, 28 Jun. 1939, CO 323/1626 no. 2255/3.

Unless we can clearly say that H.M. has jurisdiction in the Malay State concerned, it is impossible to make headway.<sup>70</sup>

Thomas accordingly was instructed in October 1941 to explore the question of ceding jurisdiction for the purpose at hand with the Rulers of both the FMS and UMS. Even if definite conclusions about China's post-war attitude towards her overseas nationals could not yet be determined, Lord Moyne, the new Colonial Secretary, nevertheless warned that "one must be prepared to reckon with the possibility that a strongly nationalist policy would in effect be followed."<sup>71</sup> But before the High Commissioner could reply, Japan invaded Malaya in December 1941.

#### IV

The Treaty system, as we have seen, hampered the full exercise of British power in the Malay States. Why then did Britain not do away with the Treaties before 1941? To some extent, moral and legal constraints circumscribed her ability, as a major power, to flagrantly ignore her existing Treaty obligations. Although the paramount power could legitimately exercise its paramountcy beyond the terms of the treaties in times of crisis,<sup>72</sup> no such crisis affected Malaya until 1941 which brought into question Britain's ability to "protect" the various States and henceforth justify a reassessment of the underlying principles governing Anglo-Malay Treaty relationship. To be sure, as Allen cogently argued, in the realm of realpolitik, the imposition of new treaties more propitious to British ambitions would no doubt have been decisive had there been a pressing need.<sup>73</sup> But no such pressing need appeared at hand in Malaya before 1941.

It is likely that the Colonial Office's response reflected also a certain admission of the lack of politically credible options available to HMG. The most obvious means of extending jurisdiction

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70. Minute by Gent, 23 Aug. 1941, CO 323/1626 no. 2255/3.

71. Moyne to Thomas, 15 Oct. 1941, Ibid.

72. Minute by Calder, 13 Apr. 1931, CO 717/81 no. 82395.

73. J. Allen, The Malayan Union, (New Haven, 1967), p. 3.



was, of course, annexation and although some mode of annexation had in fact been contemplated in Malaya in the late nineteenth century,<sup>74</sup> by the turn of the century this was no longer thought feasible. By then, structural contrariety had become more clearly defined and Britain had decided to work within the parameters of the Treaty system. Certainly, annexation carried risks and would probably have had to be inflicted on a resisting Malay population. Imperialism after World War I was also on the defensive and Britain was morally obliged to endorse the system of indirect rule.<sup>75</sup>

Apart from annexation, the second course - inducing the Rulers to cede, under new treaty arrangements, fresh jurisdiction to HMG - also carried risks: it hinged precariously on the Sultan's uncertain willingness to comply with British wishes and sign on the dotted line. Should the Sultan prove recalcitrant, HMG would then have to consider the unpleasant task of deposition. As one senior Colonial Office official put it: "[D]eposition seems to follow from the treaty i.e. the Sultan agrees to do certain things, if he persistently refuses he must go."<sup>76</sup> Indeed, in 1906 and 1914 and again in 1919, the Colonial Office came very close to discussing the deposition of the Rulers of Johore and Trengganu.<sup>77</sup> Deposition - or the threat of deposition - nevertheless presented problems. Not only would it adversely create bad feelings between the British and the Malays but it might also cast the validity

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74. Some form of annexation had been considered in 1875, 1879 and 1880 but each time it was vetoed by the Colonial Office. See Allen, The Malayan Union, p.3.

75. See Yeo, p. 38.

76. Minute by Grindle, 14 Feb. 1920, CO 537/797 no. 5002.

77. The Colonial Office was told in 1906, for instance, that unless Sultan Ibrahim of Johore complied with HMG's wishes, he must "retire from the business altogether". In 1914, Ibrahim was brought to task again for allowing conditions in Johore to deteriorate "to that which called for decided action in 1906" and warned that, unless the administration improved, "the only alternative is his removal from the State". In 1919, Malayan officials, increasingly piqued by the obstructive nature of Sultan Muhammed of Trengganu, similarly recommended that "sufficient pressure" should be put on him to "compel his resignation". See Minute by Lucas, 30 Mar. 1906, CO 273/324 no. 10619; Young to Harcourt, 19 Mar. 1914, CO 273/406 no. 13282; and report by J. Humphreys, 3 Dec. 1919, CO 537/797 no. 5002.

of any subsequent treaties - signed under duress - in grave doubt.<sup>78</sup> In reality, few senior British officials were prepared to test the limits of British power vis-a-vis the Sultans by advising the cession of jurisdiction to HMG. It was not until late 1945, when the changed circumstances of the post-war world permitted HMG to send Sir Harold MacMichael on a mission to negotiate new treaties with the Sultans ceding fresh jurisdiction to HMG.<sup>79</sup>

The method which the Colonial Office found the most acceptable was the third - the regulation of succession to the Sultanates. Thus, despite the uproar generated by British interference in the Selangor succession dispute in the 1930's, the Colonial Office remained adamant in its decision to impose an unacceptable (but, in British eyes, the most suitable) successor to the Sultan.<sup>80</sup> Interference in succession issues, however, presented one major problem: as these were matters of Malay custom, HMG in fact had no Treaty right to interfere in them. Frequent intervention could only cast HMG in bad light. As Ormsby-Gore lamented to the High Commissioner concerning the Selangor successor episode: "In London I had to meet the unanimous criticism of all the ex-High Commissioners and other important persons connected with the FMS. Indeed, one of your predecessors went so far as to accuse me of 'bad faith' in the matter of superseding the second son."<sup>81</sup>

Underpinning British reluctance to impose a new order in Malaya was also the desire not to antagonise the Malays, and especially the Malay Sultans, upon whose continual loyalty and friendship British rule in Malaya depended.<sup>82</sup> Partly for this reason, Britain had also been slow

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78. Under international law a treaty could be invalidated if it could be shown that mutual consent had not been freely given and that duress had been employed in the process of contracting. See Oppenheim, pp. 710-712; Hall, pp. 380-382. This was one of the grounds on which some Malay Rulers in Mar. 1946 repudiated the MacMichael Agreements. See Chapter 6.

79. See Chapter 5.

80. See Yeo Kim Wah, "The Selangor succession dispute 1933-38", JSEAS, 2, 2(Sep. 1971), 169-184. British officials wanted to bypass Tengku Musa-Eddin, the Sultan's eldest son and heir apparent, who was considered unsuitable, and replace him, not with the second son, but with the third, whose educational qualifications were considered superior.

81. Ibid., p. 174.

82. British officials, for instance, saw the Sultans as a stabilising force in Malaya - "a real and essential asset" without which "the Malays would have been a mob". See minute by Ormsby-Gore, 14 Aug. 1928, CO 717/61 and Hume to Wilson, 19 Jun. 1930, CO 273/565, cited in Yeo, The Politics of Decentralisation, p. 39.

in granting political rights to the Chinese. Thus, nationality discussions dragged on for over a decade with no concrete proposals implemented by 1941.<sup>83</sup> Convinced of their own ability to quietly influence the Sultans, and secure also in their belief that the Treaty system was in no way seriously inimical to the exercise of de facto British power, the Colonial Office saw few potential benefits in tinkering with a system that had preserved British rule in Malaya since 1874.

For all its curbing proclivities, the Treaty system nevertheless stabilised British rule in Malaya and afforded HMG an effective and politically expedient mode of control over the aspirations of the various races. For the Malays, the Anglo-Malay Treaties assured them of British protection against the ambitions of the immigrant races in both the economic and political spheres. Demands by the Chinese for increased political status could also be promptly answered by restating HMG's Treaty obligations to preserve and protect the Mohammedan Monarchies. The maintenance of the Sultanates under the Anglo-Malay Treaties, argued Clementi, was therefore a convenient "buffer between us and political development ... a buffer also between the Government and the Chinese."<sup>84</sup> In short, before 1941, Britain had no compelling reason to reform the Treaty system which had kept Malaya and her communities, as one Colonial Office official put it, "politically asleep"<sup>85</sup> for almost seventy years. What the Colonial Office had not counted on, however, was the Japanese invasion which radically altered British pre-war perceptions.

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83. Part of the difficulties, of course, lay in the strictures of the Treaty system but British reluctance to confer political status to the Chinese arose also because of fears about Chinese political intentions in Malaya, and especially their potential as an imperium in imperio. See minute by Gent, 27 Apr. 1940, CO 273/662 no. 50336 Pt I.

84. Clementi to Cunliffe-Lister, 3 May 1932, CO 717/88 no. 92300.

85. Minute by J.M. Martin, 30 Mar. 1931, CO 717/88 no. 82395.

## CHAPTER TWO

THE COLONIAL OFFICE AND THE EMERGENCE OF  
THE 'MALAYAN UNION' POLICY

When the Union Jack was lowered on Fort Canning in Singapore on that Sunday morning, it marked the sudden and dramatic end of an epoch in our Colonial Empire. I hope the Colonial Office realises it.

David Gammans, 21 February 1942.

## I

The Japanese invasion of Malaya began shortly after midnight on 8 December 1941. By 31 January 1942, Japanese troops had reached Johore Bahru, the southernmost tip of the Mainland, and swept the allied defenders from the Malay Peninsula into Singapore, the very centre of the British defence system in the Far East. Then, to the astonishment of the world, on 15 February 1942, Singapore itself capitulated, bringing British presence in Malaya to a sudden, and for Britain, a devastating and humiliating end: in only ten weeks fighting, an underrated Asian power with some 55,000 men has successfully displaced Britain as the imperial power in Malaya, captured her "impregnable" fortress of Singapore, and marched off some 130,000 of her troops to concentration camps.<sup>1</sup> Malaya could never be the same again. Indeed, as Edward Gent, the head of the Colonial Office Eastern department remarked, it seemed a "reasonable forecast" that Britain would now have to envisage

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1. For accounts of the Japanese invasion, see A.E. Percival, The War in Malaya, (London, 1971); W. Kirby, Singapore: The Chain of Disaster, (London, 1971); L. Allen, Singapore 1941-1942: The Politics and Strategy of the Second World War, (London, 1977); and R. Holmes and A. Kemp, The Bitter End: The Fall of Singapore 1941-42, (Chichester, 1982).

a "new deal" for her dependencies in South East Asia.<sup>2</sup>

Already in London, the series of military defeats had stirred strong public feelings for a reappraisal of British colonial policy. With a certain feeling of "baffled rage", the energy of the press, the public and the House of Commons, found a convenient outlet in "furious, and not too well balanced or well informed criticism" of Britain's colonial record in Malaya.<sup>3</sup> Three days after the fall of Singapore, The Times, for instance, published a scathing article in which it ascribed the fall of Malaya to largely military factors but added one significant "damning" phrase: it described the government of Malaya as "having no roots in the life of the people of the country." Not surprisingly, the article asserted, the "bulk of the Asiatic population remained spectators from start to finish. Their inclination was to get as far as possible from the scene of hostilities."<sup>4</sup> Extracts from The Times article were read out in the House of Commons and one member, the MP for Llanelly, called it a "terrible indictment"<sup>5</sup> of British policy in Malaya. To the despondent Colonial Office Public Relations Officer, Noel Sabine, The Times article called into question "the whole spirit and basis of our Colonial policy ... It could not be countered by showing that in Malaya we were advisers, not rulers, or by questioning our moral right to invite peaceful Malays to fling themselves unarmed in front of the Japanese tanks to stem for a few minutes the advance on Singapore."<sup>6</sup>

Sabine's worries were further heightened when The Economist on 7 March attacked HMG's traditional pre-war pro-Malay policy which it alleged had contributed to the swift defeat in Malaya. The fault of the Malayan debacle, it argued, lay not so much on the "apathetic Malays" but on the unwillingness of the Malayan authorities to enlist the cooperation of the Chinese and Indians "who were prepared to give it." Yet it was the Malays "who enjoyed priority in appointments in the civil service over the far more enterprising and energetic Chinese."

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2. See "Extract from minutes of CO Committee on Post-War Problems", 2 Apr. 1942, and Gent's comments in his minute of 11 Apr. 1942, CO 825/35 no. 55104.
  3. Memo. by Sabine, 18 Mar. 1942, CO 875/14/9 no. 9100/50.
  4. The Times, 18 Feb. 1942.
  5. Parliamentary Debates, H.C., 24 Feb. 1942, Col. 52.
  6. Memo. by Sabine, 18 Mar. 1942, CO 875/14/9 no. 9100/50.

It called on the Colonial Office to re-examine its attitude towards the principle of governing through the Sultans which had intensified the frustration of the advanced minorities "who see the progress of self-government held up because the great majority are not ready."<sup>7</sup>

The theme for a radical "stock-taking" of the principles of British rule was forcefully argued by Margery Perham in two leading articles in The Times on 13 and 14 March. Defeat in Malaya, she argued, had brought to the surface the question of whether British rule "does develop that solidarity which society needs ... for strength in war." Was it prudent, she asked, to encourage separate communities "to develop on their own lines upon parallels that will never meet?" She broached the question of a "common citizenship": "Can we afford the assumptions that a common citizenship is impossible and that the steel frame will be there to hold the groups in their uneasy suspension for all time?" The price for failure, Perham warned, was the perpetuation of those "plural" societies "whose fissiparous tendencies and inherent weakness, luridly revealed by the Japanese assault make them unfit for survival in the modern world."<sup>8</sup>

The spate of captious comment distressed Sabine who warned in a memorandum on 18 March that the criticisms of British policy had produced an "ill-defined feeling of malaise and a vague demand for urgent and dynamic remedial action." As he saw it, some pronouncement defining the objects of British colonial policy ought to be considered as a matter of urgency for counter-publicity measures would have to wait "until some decision has been reached."<sup>9</sup>

Pressure for some redefinition of British policy towards Malaya was also prompted by the knowledge that the Dutch were already making reconstruction plans for their own territories in the Netherlands East Indies. The Colonial Secretary, Lord Cranborne, learned in a conversation with the Dutch Colonial Minister, Van Mook, on 12 June that Holland was already contemplating the possibility of some kind of federation enjoining the metropolitan Government with the Government of the NEI and was anxious to make some announcement soon to counter Japanese and also Chinese and American propaganda that recent events

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7. The Economist, 7 Mar. 1942, pp. 310-312.

8. The Times, 13 and 14 Mar. 1942.

9. Memo. by Sabine, 18 Mar. 1942, CO 875/14/9 no. 9100/50.

had shown the Dutch - and the British - not only to have been Imperialists "but bungling Imperialists at that, whose day was now over." Van Mook was worried that both the Chinese and Americans would come to the peace conference demanding a say in the post-war set-up over the region. He therefore wanted to "forestall their interference" but did not want to embarrass Britain by making a premature announcement. As Cranborne reported, Van Mook wanted to know whether Britain had yet formulated her post-war policy for Malaya. Cranborne replied that the Colonial Office had been considering all these matters but had not arrived at "definite conclusions". In Malaya, he explained, Britain's position was complicated by the fact that it rested in part on agreements with the local Rulers who were "now unhappily in enemy hands." It would therefore be difficult, if not impossible, to make any announcements as to the future of their States except after consultation with them after the war.<sup>10</sup>

If Cranborne had doubts about making plans without first consulting the Sultans, these were soon to be dispelled. The underlying motivation was the crystallisation of American ideas concerning the post-war settlement in the Far East. In a memorandum received from the Foreign Office, the Colonial Office learned from Ashley Clarke, the head of the Far Eastern department of the Foreign Office who had recently returned from a month-long visit to the United States, that American planners were already drawing preliminary "conclusions" about Britain's post-war position in South East Asia and, as they viewed the war in the region as a "war of liberation", they would certainly feel "cheated" if peace resulted in the restoration of the status quo ante in Malaya. Clarke urged that the time had come to seriously "clear our minds" and to devise "new and workable ideas" that would accommodate American demands and, by so doing, influence them "in the right direction."<sup>11</sup> Malaya, Clarke suggested, was not necessarily regarded as an essential and "we must be prepared to give

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10. Memo. by Cranborne, 12 Jun. 1942, CO 825/35 no. 55104.

11. Clarke to Eden, 11 Jun. 1942, FO 371/31804 no. 4320.

up non-essentials in order to maintain the really important things."<sup>12</sup>

To the Colonial Office, the Foreign Office attitude smacked of "defeatism".<sup>13</sup> As Gent stiffly put it, the Foreign Office needed "stimulating" in order to overcome their "quite fatal lack of belief and confidence ... in our position in the Colonies." Although he appreciated the Foreign Office's concern that it was politically necessary to regard American opinion in view of the possibility of American troops being used in the liberation of Malaya and the employment of American relief in the post-war reconstruction of the country, Gent nevertheless resented the Foreign Office's tendency to "abase themselves before American opinion right or wrong." Taking strong exception to the Foreign Office's view that Malaya was simply a "pawn" in the game of international politics, Gent urged that it might be necessary to convene an inter-departmental meeting to discuss post-war questions with the Foreign Office in order to overcome its "phobia" of the restoration of British authority in Malaya.<sup>14</sup>

Matters were brought to a head by the forthcoming Institute of Pacific Relations Conference scheduled for December in Canada to which Britain had been invited to send a delegation. Both the Colonial and Foreign Offices were agreed that it was expedient for Britain to be represented at the Conference since it would afford a convenient "platform" for Britain to "make plain there and to the rest of the world that we have faith in our own future in the Far East"<sup>15</sup> as well as to educate American opinion about the Empire - otherwise, "all the dirty linen will be washed, and our case will go entirely by default."<sup>16</sup> As plans concerning the post-war settlement in South East Asia could be expected at the Conference, only a few months away, it seemed to both the Colonial and Foreign Offices that the wisest course was to begin to plan immediately at least an outline of British policy so as to enable the British delegation to say "something authoritative" as well as to forestall others.<sup>17</sup> The Conference thus furnished an unique

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12. Cited in minute by Gent, 1 Jul. 1942, CO 825/35 no. 55104.

13. See J.M. Lee and M. Petter, The Colonial Office, War and Development Policy, (London, 1982), p. 124; and Wm. R. Louis, Imperialism at Bay 1941-1945, (Oxford, 1977), p. 37.

14. Gent to Gater, 17 Jun. 1942, CO 825/35 no. 55104.

15. Gent to Broad, 1 Jun. 1942, FO 371/31801 no. 3806.

16. Law to Eden, 14 May. 1942, Ibid.

17. Minute by Brenan, 17 Jun. 1942, Ibid.



opportunity to "clear our own thoughts and perhaps develop some new ones."<sup>18</sup>

The desirability of holding as early as possible an inter-departmental meeting to "discuss possibilities" had been suggested by the Colonial Office to the Foreign Office on 1 June.<sup>19</sup> On 17 June Eden, the Foreign Secretary, agreed with Cranborne at a meeting that it was "very necessary" to start planning for the future and signalled his approval for convening joint departmental discussions on post-war questions.<sup>20</sup> With the support of both Cranborne and Eden, the momentum for post-war planning for Malaya swung into motion.

## II

Although international considerations had necessitated Foreign Office participation in the policy-making process, detailed planning for Malaya nevertheless remained largely a Colonial Office responsibility. In the formulation of Malayan policy, the Colonial Office had, traditionally depended chiefly on the recommendations and information about local developments received from the Governor-High Commissioner of Malaya. Schemes like the decentralisation proposals during the inter-war period, for instance, had mainly been prompted by officials on the spot - Maxwell, Guillemard and Clementi. In 1942, however, the Colonial Office's link with the local officials had been severed as a result of war and the internment of Sir Shenton Thomas, the Governor, and his senior officials. What influence Shenton Thomas might have exerted on policy-making had he escaped internment - as in the case of Sir Reginald Dorman-Smith, Governor of Burma, who had been withdrawn to head a Government-in-exile<sup>21</sup> - is difficult to judge. A memorandum which he wrote during his internment in Formosa in February 1944, and which was despatched to the Colonial Office in September 1945, showed him to be against the policy of decentralisation and his conviction that the latter must be abandoned before Malaya could be properly administered after the war. To return to the old situation, remarked Thomas, was "surely unthinkable." He was in favour of the nine Malay States being

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18. Minute by Butler, 16 Jun. 1942, Ibid.

19. Gent to Broad, 1 Jun. 1942, Ibid.

20. Gater to Gent, 18 Jun. 1942, CO 825/35 no. 55104.

21. See Nicholas Tarling, "'A New and Better Cuning': British Wartime Planning for Post-War Burma, 1942-43," JSEAS, 8, 1 (Mar. 1982).

ruled directly as a "Protectorate" under a central Government administered by a Governor<sup>22</sup> - a scheme essentially similar to the Malayan Union policy later adopted for Malaya.

To compensate for the internment of Thomas and his officials, the Colonial Office turned instead to three measures. First, it encouraged old Malaysians to submit memoranda and suggestions concerning the post-war reconstruction of Malaya. Gent, for instance, informed Winstedt that he would "always be glad to have any information or advice from you."<sup>23</sup> Second, the Colonial Office gathered into service a number of ex-Malayan Civil Service (MCS) officials to form a "shadow administration" for the eventual reoccupation of Malaya. A small number of these officials were involved directly in policy-making, among the most notable were P.A.B. McKerron, who had been Assistant British Adviser, Kedah from 1934 to 1936 and Chief Censor, Malaya from 1939 to 1941; H. Willan, Deputy Legal Adviser, FMS, 1934; A.T. Newbould, who was Under-Secretary of the FMS in 1940; and Victor Purcell, who was Protector of Chinese and the Director General of Information before the war. Third, the Colonial Office made use of the specialist knowledge and experience of non-MCS officials like Ralph Hone, who had served in the legal service in East Africa from 1923 to 1933 and Gibraltar from 1933 to 1937, becoming the Attorney-General of Uganda in 1937, and whose experience in military administration in the Middle East where he served as Chief Legal Adviser in the Political Branch of the GHQ from 1942 to 1943 proved useful to the Colonial Office in later appointing him to head the Malayan Planning Unit in July 1943. Another non-MCS former official who was also consulted was Lord Hailey, whose experience was mainly in Indian and African affairs - he had served as Governor of Punjab from 1924 to 1928 and of the United Provinces from 1928 to 1934 as well as the Director of the African Research Survey from 1935 to 1938 and as a member of the League of Nations Permanent Mandates Commission from 1935 to 1939 - but whose vast knowledge of colonial matters and his chairmanship of the Colonial Office Committee on Post-War Problems<sup>24</sup> gave much weight

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22. Shenton Thomas, "Suggestions on Post-War Malaya", (Formosa) 29 Feb. 1944, CO 273/677 no. 50984.

23. Gent to Winstedt, 24 Jul. 1942, CO 825/35 no. 55104.

24. The Committee was formed in March 1941 to handle reconstruction problems and was necessitated by the setting up of a Ministerial Committee on Reconstruction Problems in January 1941; the ability of the latter to call on other departments for proposals and information necessitated the establishment of a similar machinery in the Colonial Office. Most of the energies of the CO Committee went mainly into the commissioning of specialist studies on social and economic issues.

to his views on post-war questions. Though "outsiders" both Hone and Hailey were to make important contributions in the planning for Malaya.

In theory the Secretary of State determined policy. In practice the extent of his influence is more difficult to judge. As his position was a political appointment, and ministerial appointments changed fairly frequently, depending also on the Government in power, it often means that the Secretary of State seldom possessed the specialised knowledge needed to influence policy. Two Secretaries were in office during the planning for the Malayan policy from 1942 to 1945: Lord Cranborne and Oliver Stanley. Cranborne's term of office - from 23 February to 23 November 1942 - was too short-lived to enable him to be fully involved in guiding the evolution of the Malayan policy to its final stages. But what he lacked in detailed knowledge of Malaya, Cranborne made up for with his keen interest in Malayan affairs and his forceful leadership. Cranborne, for instance, had seen nearly all the important documents pertaining to Malaya - often drafting his own minutes and despatches.<sup>25</sup> And it was largely due to his "robust"<sup>26</sup> leadership that the Colonial Office in mid-1942 was steered away from the defensive and stirred to plan boldly for Malaya. Cranborne's interest in regional defence schemes had also stimulated and revived plans for a "union" of the Malayan territories while his easy working relationship with Anthony Eden,<sup>27</sup> his counterpart in the Foreign Office, helped to some extent to secure Foreign Office acquiescence to the Colonial Office's assumptions and policy.<sup>28</sup> He ensured that the main planning for Malaya remained an exclusively Colonial Office prerogative.

Oliver Stanley, in contrast, enjoyed more than two years as Secretary of State from November 1942 until 1945 when the Labour Government came into power. Although Stanley had thus been associated

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25. See Minute by Cranborne, 12 Jun. 1942, CO 825/35 no. 55104; also his minute of 14 Jul. 1942, *Ibid*; letter to Leo Amery, 18 Aug. 1942, *Ibid*; and minute of 1 Oct. 1942, *Ibid*.

26. Louis, p. 189.

27. See Cranborne to Eden, 18 Aug. 1942, CO 825/35 no. 55104; Cranborne was very close to Eden with whom he had worked before the war. See A.J. Stockwell, British Policy and Malay Politics during the Malayan Union Experiment, 1942-1948, (Kuala Lumpur, 1979), p. 19.

28. Minute by Gent, 20 Aug. 1942, CO 825/35 no. 55104.

with all the important developments in the Malayan policy - and as Colonial Secretary was chiefly responsible for defending the proposed scheme in the War Cabinet - his personal influence in the final policy is hard to assess. He rarely wrote minutes on Malaya, and when he did, these were normally terse. He had no previous Malayan - or indeed colonial - experience<sup>29</sup> and it would appear that he tended to follow the recommendations of his staff since he was "too prone to reflect the views of the last person to whom he had spoken."<sup>30</sup>

Nor was it apparent that Sir George Gater, the Permanent Under-Secretary, and head of the permanent staff in the Colonial Office, played any significant role in determining Malayan policy. Though Gater was with the Colonial Office throughout the war, and had a reputation for efficiency and drive,<sup>31</sup> he was totally unfamiliar with colonial affairs - before the war he was the Clerk of London County Council - and his comments on Malaya were made less authoritative because of his confessed "lack of knowledge"<sup>32</sup> of that area. The task of drawing up the new plans for Malaya therefore fell on the staff of the Eastern department and in particular on Edward Gent.

As the head of the Eastern department, and as one who started his career in the Colonial Office as a junior officer involved in Far Eastern affairs, Gent's long association with Malayan matters distinguished him as the Colonial Office's senior specialist on Malaya.<sup>33</sup> His experience

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29. Stanley was Minister of Transport, 1933-7; Minister of Labour, 1934-5; President of Board of Education, 1935-7 and Secretary of State of War, 1940-2.

30. Lee and Petter, p. 71.

31. Ibid., p. 67. Gater was appointed to the CO on 1 February 1940 but was temporarily removed to help in the Ministry of Supply on 25 May. He returned to the CO in April 1942 and remained until his retirement in January 1947.

32. Gater to Cranborne, 10 Jul. 1942, CO 825/35 no. 55104.

33. After a distinguished military career in World War I (he was awarded the DSO in 1919), Gent joined the CO in 1920 as an Assistant Principal and stayed with the then Far Eastern department until 1923. After a brief appointment to the Nigerian department in 1924, after which he became Private Secretary to Ormsby-Gore the following year, and promoted to Principal the year after, Gent was assigned to the General (1926-9) and Personnel (1931-33) departments. He returned to the Far Eastern department briefly in 1930 and from 1934 stayed with the renamed Eastern department until 1946 when he became Governor of the Malayan Union. In 1939 he was promoted to Assistant Secretary and became head of the Eastern department. He was again promoted to Assistant Permanent Under-Secretary in 1942.

of Malaya was not confined principally to the abstraction of desk-bound officials reading despatches and writing minutes. Gent was involved in the Colonial Office's discussion with Sultan Iskandar of Perak who visited London in 1924. He also corresponded with former Malaysians like Sir Richard Winstedt<sup>34</sup> and Sir Roland Braddell.<sup>35</sup> And when the Permanent Under-Secretary, Sir Samuel Wilson, embarked on his tour of Malaya in 1932, it was Gent who was approached to accompany him and who was later commended by Sir Wilson for his "invaluable assistance".<sup>36</sup>

To Gent the destruction of the British administration in Malaya not only altered the context for change but also afforded an unique opportunity to rationalise Malaya's anomalous administrative structures - now shown by the failure to defend Malaya as clearly defective. Malaya's pre-war division had seemed illogical to Gent who since the early thirties had already favoured "some more satisfactory alignment of all the Malay States."<sup>37</sup> Though in general agreement in principle with the decentralisation proposals before the war<sup>38</sup> - as an essential prelude to eventual recentralisation - Gent was nevertheless impatient with the slow progress towards the ultimate objective of a union of all the Malay States. As he minuted in 1934, "in the process of decentralisation we should keep before the eyes of the High Commissioner the need to start building up a new all-Malaya system."<sup>39</sup> The collapse of the pre-war structures in 1942 thus proved opportune for Gent - as one Eastern department memorandum revealed in July 1943, "The opportunity presented by the war made it unnecessary to go through the 'breaking down' policy: we could start at once with the construction of the new union."<sup>40</sup>

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34. Winstedt to Gent, 23 Jul. 1942, CO 825/35 no. 55104.

35. Braddell to Gent, 17 Nov. 1942, CO 865/14 no. M101/1.

36. Sir Samuel Wilson, Visit to Malaya, 1932, Cmd. 4276, (Mar. 1933), p. 4.

37. Minute by Gent, 27 Mar. 1934, CO 717/102 no. 33312/1.

38. In 1932 Gent had joined Sir Samuel Wilson as a member of a group that investigated the feasibility of the decentralisation proposals of Sir Cecil Clementi. See Sir S. Wilson, Visit to Malaya, 1932, Cmd 4276.

39. Minute by Gent, 27 Mar. 1934, CO 717/102 no. 33312/1.

40. Minute of discussion in CO, 30 Jul. 1943, CO 825/35 no. 55104/1.

In mid-1942, however, the moment for creating a new "union" did not present itself. At a time when Britain's right to "Empire" in the Far East was being questioned by the United States a policy of consolidation would indeed be mischievous. Moreover, Britain's existing position in the Malay States had also been made insecure by her failure to defend them under the treaty commitments.<sup>41</sup> Without at least the assurance of full administrative control over her former territories any conception of political "union" would be clearly inconceivable. The Colonial Office was on the defensive and Gent understandably trod warily. As a first step, he sought only the re-establishment of the pre-war political equilibrium in Malaya as a basis for planning for the future. The proper course, as Gent saw it, was the negotiation of new treaties with the Sultans that would envisage the restoration of Britain's former treaty relations with the Malay States and the reassertion of British sovereignty over the Straits Settlements. Thus, on 3 July, Gent cautiously broached the issue of new agreements in a preliminary memorandum drawn up for the Secretary of State's consideration.<sup>42</sup> The fundamental principles of pre-war British rule were to be retained; the re-assertion of British advisory rule in the Malay States; the maintenance of the privileged position of the Malay people and the sovereignty of the Sultans. As a tactical departure from the previous arrangement, the Malay Rulers would, however, be permitted individually to negotiate treaties of an economic nature - assuring, for instance, most favoured nation treatment in matters concerning access to raw materials tariffs and residence - with interested members of the United Nations. As such concessions could hardly be denied Britain's allies in the war, and especially to the United States, which had significant economic interests in the Far East, it seemed reasonable to Gent that, for maximum political effect, these should be made "on our own initiative and not under pressure"<sup>43</sup> from external influences. This gesture, Gent believed, would thus "show our own good faith"<sup>44</sup> and, at the same time, accommodate Foreign Office

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41. See memo. by McKerron and Day, 8 Dec. 1942, CO 865/14 no. M101/1. There was an impression amongst officials that the Japanese conquest had "destroyed our existing treaty position in consequence of our failure to afford the protection promised."
  42. "Note on Future Policy in the Far East", 3 Jul. 1942, CO 825/35 no. 55104.
  43. See Gater's comments on Gent's memo. Gater to Cranborne, 10 Jul. 1942, Ibid.
  44. "Note on Future Policy in the Far East", 3 Jul. 1942, Ibid.

sensibilities, while British political paramountcy over the Malay States would be implicitly legitimised by the requirement of an overseeing authority - a role which Britain, as the Power with whom the Sultans had been most accustomed to deal, could arguably be best suited to fulfil - to ensure the smooth implementation of the economic clauses in the new treaties.<sup>45</sup> As for the Straits Settlements Gent sought no change in their political status - British sovereignty would be unaffected - but he was open to the establishment of a multi-national commission to control the port of Singapore in view of its international economic importance.

Neither Cranborne nor Gater, however, were favourably disposed to the views envisaged by Gent. Gater opined that the negotiation of multi-lateral agreements would prove too cumbersome while the joint management of Singapore was unlikely to work satisfactorily in practice.<sup>46</sup> Cranborne similarly disliked the idea of "internationalising" either the Malay States or the Straits Settlements. If the former concluded treaties with several nations, Cranborne feared "they will only play off one against another and become a source of friction." He was not ill-disposed to the joint administration of Singapore but emphasised that this would have to be "on a basis of reciprocity" with regard to American bases at Manila and Honolulu, the Dutch in their ports and the Chinese at certain selected places. In any case, Cranborne believed that the Malay States "will never be strong enough to stand on their own feet in the modern world ... We are the obvious people to keep an eye on them." Gent's proposals, Cranborne felt, gave away too much and would be wrongly construed politically as an admission of failure on Britain's part. The implementation of these proposals would furthermore embarrass the Dutch, who would have to follow Britain's lead, and "they would certainly ... regard us as having let them down, if not actually betrayed them." Britain's colonial record, Cranborne concluded in a spirited defence of British colonial policy, was not one which the Colonial Office needed to be "ashamed":

We created Singapore ... [one] of the greatest ports in the Pacific, out of nothing. We made Malaya one of the richest and most vital producing

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45. Ibid.

46. Gater to Cranborne, 10 Jul. 1942, Ibid.

areas of the world. We brought to her peoples law and order, happiness and prosperity. These are no mean achievements.

Where Britain had failed was in defending these States - a criticism which could be equally levelled against the Dutch and the Americans. In planning for the future, Cranborne directed, "It is on this defence aspect that [we] should concentrate."<sup>47</sup>

Cranborne's intervention and argument for abandoning the defensive significantly affected Gent's attitude towards post-war planning for Malaya, as was clearly evident in the revised version of the memorandum which he submitted for discussion on 28 July.<sup>48</sup> Though free access to the services of the port of Singapore would be assured to other nations, the memorandum was careful to point out that this concession "must not be unilateral." References to multi-lateral treaties were also deleted from the revised paper. By restoring the psychological equilibrium in the Colonial Office, and by affirming Britain's right to full administrative authority over the Malay States, Cranborne had also afforded Gent the opportunity he wanted to revive his proposal for a "closer union" of all the Malay States. The justification for his proposed "Malayan Union" lay this time in Cranborne's desire for some sort of security association involving all the British territories in South East Asia. As Gent saw it, such a closer association of the Malay States - with possibly the inclusion of the Straits Settlements - would ensure better co-ordination and a "common policy" in matters of concern to Malaya generally while the linkage of a united Malaya with the Borneo territories would give rise to a "substantial block of territories" that would afford much "potential strength". In defence matters, such a union of British territories in South East Asia would make it so much easier to "fit [them] into the more general plan of the United Nations for mutual support in the Pacific." As it was probable that some conception of a United Nations defence council would be established in the region after the war, a closer union of these territories would undoubtedly enable them to be more "responsive" as a single unit.<sup>49</sup> The revised paper satisfied Cranborne who instructed that interested departments like the Foreign, India and Dominions Offices be invited to comment on the paper before an inter-departmental meeting might be convened

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47. Minute by Cranborne, 14 Jul. 1942, Ibid; see also Louis, p. 35.

48. Memo. by Gent, 28 Jul. 1942, CO 825/35 no. 55104.

49. Ibid.



later to decide on an agreed policy.

The Foreign Office found the conception of a union under British administration generally acceptable. To a significant extent this was due to the effort and personality of Cranborne. His personal friendship with Eden<sup>50</sup> contributed much to the "easy working relationship" between the two departments and enabled Cranborne to prevail upon the Foreign Secretary on the imperative of taking a "firm line" in establishing a British "sphere of influence" in the region.<sup>51</sup> When the Foreign Office hesitated on learning from the British embassy in Washington that President Roosevelt had informally indicated in early August that "the old situation could not possibly be restored" in Malaya and that he favoured some system of trusteeship over the Malay States led by Britain, China and possibly the United States, it was again Cranborne who forcefully and persuasively argued the Colonial Office's case at the preliminary meeting with Foreign Office officials on 19 August. As Gent's minutes of the meeting recorded:

It was thought likely that the President, like other distinguished Americans, had only a very vague understanding of the Malayan position, and we certainly should not concede the assumption that the restoration of our sovereign position in the Colony and our protecting position in the Malay States was impossible. It was a matter for ourselves to decide what, if any, new grouping or constitutional arrangements in Malaya ... would best suit new conditions.<sup>52</sup>

Foreign Office concurrence to the Colonial Office's recommendations had to some extent also been facilitated by the close affinity of views regarding post-war defence between the two departments. Since July the Foreign Office had also been contemplating some regional defence arrangement involving the various Powers in the area.<sup>53</sup> As the Foreign Office saw it, "it is essential that we do not find ourselves again in the position which we have been in during the last decade, namely of

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- 50. Cranborne had worked with Eden before the war during the period of the Abyssinian and Spanish wars and in the post-war era he supported Eden during the Suez crisis 1956-57. See Stockwell, p. 19.
  - 51. Cranborne to Eden, 18 Aug. 1942, CO 825/35 no. 55104; see also Louis, p. 190.
  - 52. Minute by Gent, 20 Aug. 1942, CO 825/35 no. 55104; see Louis, p. 191.
  - 53. Cited in minute by Jebb, 9 Sep. 1942, FO 371/31525 no. 742.

being responsible for the defence of vast territories with totally inadequate forces and no certainty of outside help." That such a "system of collective defence" would require, as a first step, closer co-ordination within the British territories in South East Asia themselves was recognised by the Foreign Office. As one Foreign Office memorandum put it, Malaya and the Borneo territories "should form a union under British administration."<sup>54</sup>

Though in general agreement with the Colonial Office "union" policy, the Foreign Office nevertheless saw the need to augment the proposals in one important respect. While acknowledging that the resumption of full British administrative authority over Malaya was the "obvious and only reasonable arrangement" for a policy of consolidation, the Foreign Office was nevertheless concerned about how this right to do so could be "presented to other governments and to public opinion." In view of the "anti-imperialist" posturing of the Americans, the Foreign Office assessed that any attempt by Britain to reassert control over her former territories would probably afford one of the most "crucial" and "contentious" issues at the eventual post-war settlement, and it would therefore be necessary to circumvent the problem by stating in advance Britain's intention to "foster self-government" as the ultimate goal for Malaya.<sup>55</sup>

On this question, the Colonial Office was prepared to be accomodating so long as this "ultimate goal" was kept sufficiently imprecise and there would be "no admission of immediate rights to 'independence'."<sup>56</sup> There were indeed political advantages to be gained in maintaining, as the Foreign Office memorandum had emphasised, that "the attainment of complete self-government involves a degree of responsibility to which some peoples have not yet attained."<sup>57</sup> Tactically, the "vocabulary" of self-

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54. "A post-war settlement in the Far East: need for a definite policy" (Sep. 1942), CO 825/35 no. 55104.

55. "A post-war settlement in the Far East: need for a definite policy", (Sep. 1942), CO 825/35 no. 55104. This was also the conclusion of a paper prepared by the Foreign Research and Press Service (FRPS), a research branch of the Foreign Office, in August 1942. British policy, it noted, must be "responsive" to "points of danger" in American criticisms and it would be incumbent on Britain to state her intention to "look forward to self-government as the ultimate goal" for Malaya. See "Britain's post-war prospects in the Far East", (Aug. 1942), Ibid.

56. Minute by Monson, 24 Aug. 1942, Ibid.

57. See "A post-war settlement ...", Ibid.

government was not altogether inexpedient: it afforded the Colonial Office a powerful rationale for its proposed "Malayan Union" policy - for it could then be argued, for instance, that without the conception of a united Malaya, any suggestion of self-government for the Peninsula would indeed be academic. Thus, as Gent was to point out in May 1943, the full restoration of Malaya's pre-war divided structures would undoubtedly be "undesirable in the interests of ... our declared purpose of promoting self-government."<sup>58</sup>

Like the Foreign Office, the India Office also found the Colonial Office's "Malayan Union" policy generally agreeable. Leo Amery, the India Secretary, himself favoured a more assertive and vigorous colonial policy throughout the Empire. The prospect of a unified and consolidated Malaya therefore excited him. "I trust," Amery wrote to Cranborne, "[Malaya] is going to remain effectively a part of the British Empire, and it may well be that certain Malay States hitherto in Siam should be transferred to British Malaya."<sup>59</sup> He added: "Singapore is going to be even more essential to us as a base after the war than before, [and] the war has shown the necessity for holding the whole of Malaya effectively as a protection to Singapore."<sup>60</sup> The close resemblance of the Malayan policy with plans that were being formulated in the India and Burma Offices for the post-war reconstruction of Burma probably also influenced Amery's attitude concerning the desirability of the "Malayan Union" policy. Early in August, Amery had forwarded to Cranborne a memorandum prepared by Dorman-Smith, the former Governor of Burma, which outlined the proposals on post-war policy for Burma.<sup>61</sup> Like the Colonial Office's plans for Malaya, Dorman-Smith had also argued against any immediate grant of "freedom" or a return to the pre-war constitutional status quo. The former, he felt, was impossible as Britain had a responsibility "to rehabilitate the life" of Burma which had been destroyed "owing to our inability to defend her." A return to the pre-war constitution was also undesirable since the latter "creaked very badly". The break in constitutional life during the Japanese interregnum, on the other hand,

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58. Minute by Gent, 18 May 1943, CO 825/35 no. 55104/1.

59. Amery to Cranborne, 19 Aug. 1942, CO 825/35 no. 55104.

60. Amery to Cranborne, 26 Aug. 1942, Ibid.

61. Memo. by Dorman-Smith, "Policy in regard to reconstruction in Burma after reoccupation", 7 Aug. 1942, Ibid.; Amery to Cranborne, 7 Aug. 1942, Ibid.; see also Tarling, pp. 36-37.

afforded an "unexampled opportunity to eradicate old defects." The only sensible course, as he saw it, was to suspend the constitution for a limited period and to resort to a system of "direct rule" through the Governor until reconstruction was completed - rationalisations that were remarkably similar "with what will need to be done for Malaya."<sup>62</sup> Given that the plans for Malaya were in principle "much the same as those facing Burma"<sup>63</sup>, The Colonial Office rightly did not expect any serious objections to its "Malayan Union" policy from the India Office.

The concurrence of both the Foreign and India Offices permitted the Colonial Office from September to turn its attention to the next phase in its planning for Malaya - the establishment of a small planning unit to work out in more details the implications of the new Malayan policy with the War Office.

### III

The need for a small planning unit had been urged by Gent as early as March 1942.<sup>64</sup> Cranborne, however, was doubtful "about going so far" at that stage. As he saw it, "to approach individual officers now is surely premature, at a time when we have not a notion how things will turn out in the Far East."<sup>65</sup> When the suggestion was revived in September, Cranborne again proved reticent, but agreed to the compilation of a list of former Malayan officers who might be available for service upon the reoccupation of Malaya.<sup>66</sup> The need to actually assemble - and not just earmark - the nucleus of a planning staff in London became more immediate towards the end of the year when the Cabinet, in considering the future form of the Government that would be established in Burma, decided that, not only in Burma but also in Malaya and Borneo, the first step would be to establish a military administration under the control of

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62. Cranborne to Amery, 25 Aug. 1942, CO 825/35 no. 55104.

63. Minute by Gent, 13 Aug. 1942, Ibid.

64. Gent to Parkinson, 21 Mar. 1942, CO 825/35 no. 55104/1A.

65. Minute by Cranborne, 23 Apr. 1942, Ibid.

66. Gater to Gent, 21 Sep. 1942, Ibid.

a senior military officer commanding the reoccupation troops.<sup>67</sup>

With the Cabinet decision, planning for the reoccupation of Malaya thus became essentially a combined military-civil undertaking - with the War Office assuming all responsibility for military planning while the Colonial Office concentrated on the conception of the future constitutional policy. Close collaboration between the two departments, became "very necessary" since all planning for the military administration had to conform, so far as possible, with the civil policy. Given that such arrangements were "complex and will take so long to work out in detail" the Colonial Office was understandably anxious that joint examination of these problems with the War Office could proceed "without further delay". In particular, what was urgently required was the appointment of a nucleus of senior officers who would be responsible for the planning and, ultimately, the administration of civil affairs during the military administration period and thereafter to head the various departments in the civil government. Otherwise, the Colonial Office feared it would be difficult to build up the envisaged "shadow administration" that would eventually govern Malaya.<sup>68</sup> The War Office, however, proved very slow in responding; it was, in the words of the official historian, "otherwise preoccupied, and as yet unaware of the complexity of planning involved."<sup>69</sup>

By December, however, the War Office was prompted into action. The immediate cause was a memorandum drawn up by two former MCS officials - P.A.B. McKerron and E.V.G. Day - and forwarded to both Field Marshal Wavell, Commander-in-Chief, India, and the Colonial Office.<sup>70</sup> Drawing on their respective experiences as the Political Secretary and Deputy Political Secretary of the civil and military advisers of the Commander-in-Chief, Ceylon, McKerron and Day urged that "steps should be taken immediately" to set up a civil planning unit for Malaya.

Turning to the longer-range problems, McKerron and Day argued that

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- 67. H.R. Hone, Report on the British Military Administration of Malaya, September 1945 to March 1946, (Kuala Lumpur, 1946), p. 1.
  - 68. Memo. by Paskin, 30 Nov. 1942, CO 825/35 no. 55104/1A.
  - 69. F.S.V. Donnison, British Military Administration in the Far East 1943-46, (London, 1956), p. 139.
  - 70. Memo. by McKerron and Day, 8 Dec. 1942, CO 865/14 no. M101/1.

it was essential that the "general lines" of the future constitutional policy should be decided in advance in order to provide some guidance for the military authorities in their dealings with the local peoples. The military commander, for instance, would want to know the policy and attitude which he was to adopt towards the Rulers on the immediate reoccupation of their States and towards persons who had allowed themselves to be used as Japanese puppets. Although it would be premature to be precise about the exact form of the future constitution - an undertaking best handled by an Imperial Commission - McKerron and Day nevertheless considered that it would be "unthinkable to restore in the same form the heterogeneity of separate Administrations which made the Government of the old Malaya so complex and unnecessarily expensive." As they saw it, Malaya should be conceived as a new "Federation": "For general administrative and customs purposes at any rate the whole of the mainland will have to be federated anew into one unit with a British High Commissioner resident at Kuala Lumpur. New Treaties will therefore presumably have to be negotiated with the individual States of the new Federation." As to whether the new Malayan Federation would include the Straits Settlements, McKerron and Day were less definite. Malacca and Province Wellesley would probably have to be "closely fitted administratively into the Federation"; Singapore, however, might remain separate:

The interests of Singapore, in particular, and the mainland have always clashed, and it may well be that Singapore could play its destined part in the New World Order better if it were constituted as an International Free Port under British control and protection on the lines of the old Shanghai International Settlement than if it were to become part of the United States of Malaya.

As for the Borneo territories, McKerron and Day favoured them to be "federated in some way, either with the 'United States of Malaya' or in close relationship to them." Given the extent of the ground to be covered, it was fairly obvious that some "hard thinking and hard work ... will be required in advance if ... the Civil Power is adequately to play its part."<sup>71</sup>

Wavell entirely agreed. On 28 December he wrote to General Sir Alan Brooke, Chief of the Imperial General Staff, forwarding a copy of

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71. Ibid.

the McKerron-Day memorandum, and recommending that some organisation be set up to plan ahead for the administration of Malaya.<sup>72</sup> Unlike Burma, Wavell observed, there was no ready-made administrative organisation that could be put into uniform in the case of Malaya. The government of Malaya, on the other hand, was a very complex affair and the bulk of the administrative personnel had been interned. There was therefore a very complicated problem ahead in which a start from scratch would have to be made.

Early in January 1943, the Colonial Office had also decided to nudge the War Office into action. On 8 January, Sir George Gater wrote to Sir Frederick Bovenschen, the Permanent Under-Secretary at the War Office, expressing deep concern about the "distressingly slender foundations" on which to build upon in planning for Malaya and urged that the actual assembling of a nucleus of senior officers be started immediately. The Colonial Office already had in mind the person for the post of Chief Civil Affairs Officer (CCAO) who would be in overall charge of the planning unit: Major-General H.R. Hone, who at that time held the appointment of CCAO, Middle East Command, and had been a member of the Colonial Service for twenty-three years. Hone was "the most suitable man for the job" since his experience with military administrations in Africa and his knowledge of colonial administrations "gives him a specially valuable qualification for the opening stages of the restoration of British authority in the Malayan region and the subsequent conversion of the military administration into a civil organisation."<sup>73</sup> As Hone was tied up in the Middle East Command, War Office approval to secure his release for service in the Far East was therefore necessary.

On 19 January the War Office finally agreed to "put the wheels into motion"<sup>74</sup> and on 11 February inter-departmental discussions between the War and Colonial Offices were held.<sup>75</sup> Both departments agreed to hold weekly informal meetings. The War Office, however, accepted that, officially, planning would be its responsibility, although it thought that the Colonial Office "are obviously the Department best equipped to consider the matter relating to the Civil administration of Malaya on re-occupation. They have staff who are intimately acquainted with Malaya and its special problems." But as the

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72. Cited in Note by D.S. McKinnell, (MO 12), 14 Jan. 1943, WO 106/4595.

73. Gater to Bovenschen, 8 Jan. 1943, CO 825/35 no. 55104/6.

74. Note by MO12, 19 Jan. 1943, WO 106/4595.

75. "Discussion on Malaya with the CO", 11 Feb. 1943, Ibid.

War Office would have to justify the policy eventually, it wanted assurances that the Colonial Office's policy "is one which we can defend". At the moment it was not at all certain that the Colonial Office's proposals would "go far in forestalling public criticism and in meeting the wishes of the Americans."<sup>76</sup>

In the meantime the Middle East Command had agreed that Hone could be released for service in the Far East but not until May.<sup>77</sup> Towards the end of March the War Office informed the Colonial Office that, owing to a change of circumstances, Hone's departure for London would have to be revised to the end of July.<sup>78</sup> In May the War Office again asked for a postponement of Hone's departure date since the candidate who was to replace him in Middle East Command was not acceptable to General Wilson who insisted that he must be a soldier. Such petty predilections infuriated Gent already impatient with the delays:

We are all very conscious here of the tremendous amount of work and thought which needs to be put into the plans for such a territory as Malaya and we are constantly up against the pretext that progress in one direction or another must be deferred 'until Hone arrives'. ... it will be exceedingly hard luck on General Hone, who after all is substantively a Colonial Civil Servant, if it were made impossible for him to take up this appointment leading as it will to the highest rank of the Colonial Administrative Service - owing to General Wilson's predilections for a soldier to succeed Hone in Africa and not because General Hone himself is indispensable in Africa.<sup>79</sup>

This time the Colonial Office stood firm. As Gater told Bovenschen, "the whole organisation depended upon him [Hone]" and further delay was unthinkable. The right course for the Secretary of State for War to take was to inform General Wilson that Hone would leave on the fixed date. This would bring Wilson "up against the realities of the situation" and he might be more reasonable.<sup>80</sup> The War Office relented and on 21

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76. Minute by C.E. Key, 13 Feb. 1943, WO 32/10182.

77. Middle East Command to WO, 23 Feb. 1943, WO 106/4595.

78. Bovenschen to Gater, 31 Mar. 1943, CO 865/28 no. M/105/1A. Hone's departure was delayed because of the departure of Lord Rennell to Algiers and the breakdown of a newly appointed colleague of Rennell.

79. Gent to Gater, 18 May 1943, Ibid.

80. Minute by Gater, 17 May 1943, Ibid.



June it secured Sir Arthur Parsons to replace Hone in Middle East Command. On 9 July Hone arrived in London. Four days before, on 5 July, the Malayan Planning Unit was established with an initial staff of six officers and attached to the Directorate of Civil Affairs in the War Office.

#### IV

Since March 1943 the Colonial Office, bolstered by the prospect of the establishment of the Malayan Planning Unit, had also begun more detailed discussions on its evolving Malayan policy. As the War Office would be naturally anxious to know the Colonial Office's constitutional plans for Malaya, it became very necessary for the Colonial Office to settle the general outlines of its constitutional policy before the arrival of Hone to set up the MPU. On 4 March Gent, accompanied by J.D. Paskin, Assistant Secretary, and W.B.L. Monson, Principal, met for discussions with Sir K. Poyser, the Colonial Office's Legal Adviser, on the future constitutional policy for Malaya and Borneo. By then the Colonial Office was already having second thoughts on its original conception of a union of the Borneo territories with the Malay States and the Straits Settlements in a wider "Malayan Federation". Though "attractive" in theory, the Colonial Office surmised that the idea of a South East Asian union was impractical "in the present stage of their development."<sup>81</sup> Such a union between the Borneo territories and the Malay States, for instance, would be hampered by the fact that they "have little direct intercommunication and trade between each other and they are racially disunited." Even a union between the Straits Settlements and the Malay States would not work in that form given Singapore's "special status". In the future constitutional arrangement, Singapore should therefore be excluded from the Mainland:

- i. it has a special position as an entrepot and distributing centre for all the United Nations territories in South East Asia. Its 'free-port' policy should, therefore, be preserved.
- ii. it will have a similar special importance to the United Nations as a naval base.

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81. "Plans for constitutional reconstruction in Far East", 9 Mar. 1943, CO 825/35 no. 55104/1.

- iii. its wealth gave it a preponderance in pre-war Malaya which was resented by other political units in the Peninsula and so created a barrier to closer union since the latter feared that, in any closer union, their interests would be subordinated to the rather special different interests of Singapore.
- iv. the problems of government in Singapore which is so much urbanised are in important respects different from those in the rest of the Peninsula.

As for the rest of the Settlements - Penang and Malacca - the Colonial Office recommended that, with the Malay States, they should be

linked in a new Federation with its capital at Kuala Lumpur, which would be the headquarters of a High Commissioner ...

The conception of the new Federation and the separation of Singapore, it should be noted, were not entirely original. Both McKerron and Day in their memorandum discussed previously had already advocated such a step. Presumably their memorandum affected to some extent the crystallisation of the Colonial Office's policy towards Malaya. In the new Federation, the relationship between the Central and State authorities, unlike the pre-war practice, would be fairly well defined; "residual" powers, for instance, would be devolved to the Central Authority. As for the constitution of the Central body, it was proposed that there would be some form of election of representatives by the State and Settlement legislatures. The Rulers, it was suggested, would form a "quasi-chamber of Princes" specially concerned with legislation affecting their princely status and Muslim law and custom. As a matter of form the High Commissioner would preside and would himself represent the Crown in respect of the Colony.

Although the Colonial Office rejected the conception of a South East Asian union, it retained the objective of some "closer co-operation and control of policy throughout the territories concerned in Malaya and Borneo". This co-ordination would be achieved by the new appointment of a "Governor-General", stationed in Singapore, who would become the "supreme British regional authority" in the area. Although without direct governmental functions within any of the units concerned, he would nevertheless have authority over the proposed High Commissioner for the Malayan Federation, the Governor of North Borneo and the British advisers

in Brunei and Sarawak.

The one significant obstacle which stood in the Colonial Office's conception of a Federation were the same juridical difficulties which had constricted the Colonial Office's planners before the war. As the department was reminded at the discussion, HMG did not possess "even a scintilla of jurisdiction" in the Malay States. Some measure of jurisdiction could indeed be acquired during the period of military administration when the General-Officer-Commanding (GOC) automatically assumed jurisdiction over the Malay States by proclamation deriving its authority from the usages of war. Nevertheless, this at best only afforded HMG temporary jurisdiction during the period of the military administration and the problem again would be to determine "how that jurisdiction can be made to survive the termination of the GOC's authority." Under such circumstances the Colonial Office felt that the advisable course of action appeared to revolve around the idea of despatching a Commission of Enquiry to Malaya - a proposal also recommended by McKerron and Day in their memorandum<sup>82</sup> - during the period of military occupation to investigate the many "difficult and involved problems" of constitutional Federation.<sup>83</sup>

Early in April, Gent decided to discuss the "likely success" of the new proposals with an "experienced counsellor" as Lord Hailey, a "key figure" in the 'colonial question'.<sup>84</sup> Although not a Malayan specialist, Hailey's opinions on colonial matters were nevertheless much valued because of the breadth and depth of his knowledge on such questions. As Louis put it, "No one can study the colonial question during the war without becoming aware of the immense influence exerted by Lord Hailey." In December 1942 he had led a British delegation to the Institute of Pacific Relations Conference at Mont Tremblant, Canada, where he put up a "truly superb"<sup>85</sup> defence of the British colonial record before American audiences. Hailey therefore was very much in tune with current American thinking on the future of the British territories in the region. As Gent saw it, Hailey's "recent contacts" with American opinion might prove advantageous in determining the

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82. See p.57 above.

83. Minute by Gent, 20 Mar. 1943, CO 825/35 no. 55104/1.

84. Louis, p. 11; see also pp. 45-46 above.

85. Louis, p. 13.

feasibility of the Colonial Office's plans from the perspective of "international politics". His experience and influence would also prove useful in later discussions with the Secretary of State who "no doubt" would want to examine the proposals "in relation to the possible establishment of some international regional organisation in the South West Pacific."<sup>86</sup>

When approached by Gent on 9 April, Hailey suggested that the Colonial Office should immediately examine the legal and constitutional aspects of its problem. For instance, would the sovereign position of the Rulers and the validity of the Anglo-Malay Treaties be eliminated by the Japanese conquest and the subsequent British reconquest? Supposing it was not the British who reconquered the territories but the Americans - would the Treaties become invalid "by frustration"? Would this leave the conquering Power "a free field" in the British territories?<sup>87</sup> As Hailey explained later, it was necessary that the Colonial Office be ready with the answers to such questions since the recovery of Malaya might possibly be a joint Anglo-American operation and "nothing could prevent American opinion from expressing itself freely on the subject."<sup>88</sup>

Replying to a query by Gent on Hailey's comments, Sir K. Poyser maintained that treaties, even between belligerents, were not automatically cancelled by the outbreak of war. The peace treaty, however, would set out whether such treaties were to remain in force or be cancelled or modified. The question of treaties was not strictly one of law since these could not be enforced by any judicial authority, depending more on the "moral obligation" of the contracting States to observe their stipulations. It would, therefore, be open to the Malay States to take the view that their Agreements with HMG were determined on the ground that the latter failed to carry out the Treaty commitment of protecting the Malay States. It would equally be open to HMG on reconquest to retort that this obligation had in fact been fulfilled although it took some time to do so. Poyser, however, agreed that the whole issue was a matter of "policy" for HMG. Nevertheless, as he observed, if HMG reconquered and occupied all the Malay States, it would be possible for HMG to "declare a Protectorate or enter into some

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86. Minute by Gent, 20 Mar. 1943, CO 825/35 no. 55104/1.

87. Gent to Poyser, 9 Apr. 1943, Ibid.

88. Memo. by Hailey to Gent, 19 Apr. 1943, Ibid.

other form of Agreement which would give [HMG] some jurisdiction in these States."<sup>89</sup>

Prompted by his further discussions with Gent and Poyser on the juridical position in Malaya, Hailey sent the Colonial Office a lengthy memorandum outlining his views on constitutional reconstruction on 19 April.<sup>90</sup> As Hailey saw it, Malaya would probably present the Colonial Office with its "most difficult" problem. On the one hand, HMG had an obligation to respect the sovereignty and position of the Rulers; on the other, there was also a concomitant need to take account of HMG's policy of promoting self-government in the British territories. Although adverse expressions of American opinion might not necessarily impair co-operation in military operations, they would nevertheless "strengthen the hands of our own domestic critics if they thought that our policy was not sufficiently 'forward looking' ... The reasons which our critics discover may be the wrong ones. But it will be troublesome if we have at the same time to correct false impressions about the past, and encounter difficulty in justifying our plans for the future." It was true, Hailey argued, that the former system offered "many advantages" and was largely responsible for the "almost dramatic" development of pre-war Malaya but it was time to ask two fundamental questions: first, whether the pre-war system was capable of being adjusted to the promotion of self-governing institutions and, second, whether it would enable a suitable status to be given to those Chinese and Indian immigrants who might acquire a permanent interest in the country. Hailey surmised that the answers to both questions would be negative. If "self-government" was interpreted as the progressive relaxation of official control over the Sultans and their Councils the end result would probably be "autocratic rule in the hands of the Sultans and their Malay advisers." Hitherto, such rights as the immigrant population might acquire would then only be obtained "on sufferance". Nor would there be any guarantee for any co-ordinated policy in economic and social matters throughout Malaya as a whole.

Alternatively, an interventionist strategy whereby HMG assumed authority over the Sultans would mitigate somewhat the Colonial Office's anticipated difficulties. But would the retention of effective control in British hands be equally compatible with the principle of self-

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89. Poyser to Gent, 15 Apr. 1943, Ibid.

90. Memo. from Hailey to Gent, 19 Apr. 1943, Ibid.

government? Hailey had few doubts that this was the only basis upon which self-government could ultimately be built up. But HMG must possess the "one essential requirement" - jurisdiction:

We must obtain undisputed rights of jurisdiction throughout this area, and this can be achieved only by its treatment as a Protectorate and the extension to it of the Foreign Jurisdiction Act. ... We shall thus make it impossible to raise those questions of 'ultimate jurisdiction', of possible 'concurrent authority' and the like which have proved so embarrassing to us ... We should then be in a position (a) to define the exact scope of the authority of the Sultans and their councils, (b) to give such status as we consider reasonable to the immigrant population and (c) to introduce a uniform system of rule throughout Malaya.

Hailey admitted that his recommendations would involve "some invasion of the position given to the Sultans" under the Treaties: "The general tenor of Privy Council judgements points to the conclusion that where the Foreign Jurisdiction Act has been applied, no previous treaty has any force, in the sense that it cannot be quoted against the Government in any municipal court." But, as he rationalised, this was only acknowledging a position which had already existed by "usage":

Sooner or later, we shall have to face squarely the question whether we are to allow the facade of Sultan-rule to persist, with all the difficulties which it presents to the attainment of any form of self-government, or to build up a constitution on the basis of realities.

Although the previous Treaties would be superseded by the new arrangements, HMG nevertheless had a "moral obligation" to respect the spirit, if not the letter, of the former agreements. The Sultans, Hailey suggested, should be given a ceremonial role, confining their functions to matters relating mainly to Islamic law or custom; their financial position should be safeguarded by giving them a civil list, which would include the possession of family lands. It would be a matter for discussion whether the Sultan would be given the honorary position of President of the proposed State Legislative Council. Hailey was

aware that his recommendations were controversial. For this reason he counselled that the juridical position should be made clear if only so that "we should be more at ease in applying these considerations." Hailey proposed that the Colonial Office assumed that the Treaties had been "frustrated" by the loss of control over Malaya and that they therefore remained "in suspense". "Whatever the juridical position", Hailey asserted, "it may well be that this is the attitude we should take on political grounds."

Turning to the Colonial Office's general plans for the region, Hailey agreed that the conception of a wider South East Asian union would be "premature". As for the separation of Singapore from the Malayan Federation, Hailey surmised that the Colonial Office had missed the "strongest argument" for Singapore's treatment as a separate entity - "the great predominance of Chinese in the population."<sup>91</sup>

Hailey's memorandum significantly transformed the direction of the Colonial Office's Malayan planning. As Gater informed the new Secretary of State, Oliver Stanley, Hailey had made "a most valuable contribution which provides much food for thought."<sup>92</sup> Given Hailey's backing for the new policy, Stanley approved the general planning framework for Malaya on 13 May. Singapore, because of its "distinctive characteristics", would be treated as a special "free port" area in which "self-government would develop by municipal methods and which would be a district administered separately from the rest of Malaya."<sup>93</sup> As for the remaining territories in the Malay Peninsula, a full restoration of the pre-war position for Malaya was undesirable on two grounds: (1) efficiency and security; and (2) HMG's declared intention to promote self-government - mentioned here in connection with the Malayan policy by the Colonial Office for the first time. The first of these interests required a "closer union" of Malayan territories. A Central Authority would thus be constituted with overriding powers over the State and Settlement authorities. Residual powers not specifically delegated to the latter bodies would be vested in the Central Authority. As for the second objective, the Colonial Office agreed with Hailey that it was important to "avoid the dilemma towards which pre-war arrangements were developing viz. that the logical alternative to the system of

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91. Ibid.

92. Gater To Stanley, 29 Apr. 1943, Ibid.

93. Minute by Gent, 18 May 1943, Ibid.

direct rule behind a facade of Sultan rule was its replacement by a system of autocratic rule by the Sultans and their Malay advisers." But the Colonial Office, at the same time, cautioned against "the other extreme" of making self-government dependent upon "a numerical counting of heads which would mean the swamping of the permanently resident communities (especially the Malays) by immigrants without a lasting interest in the country."<sup>94</sup> While the interests and rights of the domiciled non-Malay races would be bolstered through increased participation in representative institutions, the political, economic and social rights of the Malays would also be equally preserved. Within this framework, again agreeing with Hailey, the Rulers would retain their customary religious and social position. Significantly, the Colonial Office also endorsed Hailey's recommendation on the desirability of using the period of military reoccupation as a pretext for extending HMG's jurisdiction over the Malay States; as Gent's minutes of the discussion with Stanley put it:

On the re-occupation of Malaya direct authority would be exercised by the Military Commander and the old position in which His Majesty had no jurisdiction in the Malay States would thus disappear, and it would be possible to legislate for the territory under the Foreign Jurisdiction Act. This jurisdiction should be preserved when the Military Administration gives way to a permanent administration.

The pre-war Anglo-Malay Treaties would then be "revised" to "accord with the new position and especially with His Majesty's new power of jurisdiction." The details of the general framework would then be further considered by a Commission of Enquiry as soon as hostilities ceased and local conditions permitted.<sup>95</sup>

The need for more precise legal opinion was recognised by Gent who on 28 May consulted Harold Duncan, the Colonial Office's Legal Adviser. Duncan saw legal difficulties in implementing the plans. In his view, the jurisdiction assumed by the Military Commander during the period of military re-occupation would not permit HMG to legislate "thereafter" for the territory as a British protectorate under the

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94. "Constitution Reconstruction in the Far East" minute of discussion, 14 May 1943, Ibid.

95. Minute by Gent, 18 May 1943, Ibid.



Foreign Jurisdiction Act (FJA). By ejecting the Japanese and reoccupying Malaya, HMG would have in fact fulfilled the Treaty obligation to protect the Malay States. The Treaties therefore had not been "annulled". The proper course to effect the necessary changes would be to negotiate "fresh treaties" with the States whereby jurisdiction would be ceded to HMG.<sup>96</sup> Duncan's assessment was confirmed in a further discussion with the Attorney-General on 25 June.<sup>97</sup>

With the expected arrival of Hone in early July, the Colonial Office decided to postpone discussion on the complex legal questions until the matter could be considered by the MPU. Since Hone had once been the former Attorney-General of Uganda, he would be competently equipped to wrestle with the legal technicalities of the Malayan case. The only qualification which he did not possess, was "a personal experience of Malaya" but, as Gent was quick to point out, "that experience would be present amongst his lieutenants [in the MPU] such as Mr. McKerron." His lack of previous knowledge would be more than counter-balanced by "his knowledge of and success in a Military administration combined with his knowledge of Colonial Service administration."<sup>98</sup> As an "outsider", Hone bore none of the conservatism and scruples that normally characterised the attitude of former MCS officials towards constitutional change in Malaya. Indeed, in May, he had complained about the "dearth of literature"<sup>99</sup> on Malaya while still discharging his duties in the Middle East Command and requested the Colonial Office to send him some reading material by air. Within a month after his arrival in London he had already produced two lengthy and closely reasoned memoranda on Malayan constitutional problems.<sup>100</sup>

In his first memorandum drawn up towards the end of July, Hone argued against the idea of a Royal Commission, believing that this would probably require the military administration to be extended for a

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96. Duncan to Gent, 29 May 1943, Ibid.

97. Minute by Duncan, 26 Jun. 1943, Ibid.

98. Gent to Gater, 18 May 1943, CO 865/28 no. M/105/1A.

99. Hone to WO, 23 May 1943, WO 106/4595.

100. Memo by Hone, "Constitutional Reconstruction in Malaya", n.d. (Jul. 1943), CO 825/35 no. 55104/1; and "Post War Constitutional Arrangements for Mainland of Malaya", 28 Jul. 1943, Ibid.

period of two to three years during which time the pre-war constitution would be in suspense and the Rulers shorn of all authority. While the Sultans might have quietly acquiesced to the initial promulgation of martial law - since they had no real practical alternative - it was unlikely that they would contemplate their continual subservience to the military authorities after a period of six months during which time it could be fairly assumed that conditions in Malaya would have become quite settled:

As soon as it becomes apparent that some form of civil government could successfully function, the Sultans will certainly press for the immediate honouring of the existing treaties in order that they may resume their former authority and position. The longer this is denied to them the more suspicious they will become and the more will they be reluctant to enter into new treaties when HMG has finally made up its mind what it proposes to substitute as a new constitution for Malaya.

Nor would world opinion be impressed by a prolonged military presence:

Outside Malaya there will be a strong body of political feeling which will protest that the prolongation of the period of military administration is no longer a military necessity but is a device of HMG to tear up the treaties with the Sultans. American opinion might also express itself forcibly against the course being adopted.

The Military Commander would then find himself "embroiled in political controversies regarding the post-military period" and he would probably inform HMG categorically that, in his opinion, there was no military justification for the continuance of the regime of martial law.

A better method, Hone volunteered, was to approach the Sultans for a revision of the Treaties immediately upon the reoccupation of Malaya. To some extent, HMG would be able to capitalise on the post-war euphoria that might make the Sultans more willing to negotiate new treaties with HMG:

It is considered that the longer we delay in getting the treaties revised the more difficult will the negotiations become. Though the Sultans may be glad to see us back they will not have forgotten the fact that we were forced to abandon

them. ... we must ... hope that in the excitement of seeing us back and at the moment of victorious British arms they will be prepared to sign on the dotted line.

If the Rulers proved recalcitrant, the period of military administration would also afford a "useful lever which will not be so efficacious as time goes on":

We shall be able to say that unless they accept the new treaties they will not acquire any authority from the C-in-C during the period of military occupation and indeed we can almost go further and threaten to remove them from office and from the territory. In the early stages of the re-occupation we may find that some, at least, of the Sultans will be nervous of the reception they will get from us on account of their conduct during the Japanese occupation. Indeed we may find that in any case certain Rulers may have to be deposed on account of treacherous behaviour. The removal of even one such Sultan upon re-occupation may reduce the others to a state of mind which will facilitate the negotiation of new treaties. But after the initial few months, these weapons will have lost their value.

Additionally, the period of military administration could also usefully be used to "try out" the new constitution in modified form "so that when the time is ripe for setting up a full civil government, people within Malaya and those outside it, would be satisfied that the general scheme was sound and indeed had already proved itself in practice." It was therefore important, Hone urged, that HMG returned to Malaya with a "cut and dried scheme" that contained features "likely to attract the Rulers". If this approach was adopted, the immediate visitation of a Royal Commission to Malaya would prove unnecessary.<sup>101</sup>

In a further memorandum written on 28 July Hone urged that the stage of planning had been reached when the Cabinet must be called upon to decide either for the continuation of the pre-war policy of decentralisation or for the "reversal of policy" which the Colonial Office was advocating.<sup>102</sup> Decentralisation, Hone argued, would "inevitably lead to greater and further demands by the States for the

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101. Memo by Hone, "Constitutional Reconstruction in Malaya", n.d. (Jul. 1943), Ibid.

102. Memo by Hone, "Post War Constitutional Arrangements for Mainland of Malaya", 28 Jul. 1943, Ibid.

control of additional subjects until we reach the position when the Federal Government will be shorn of all its authority." The new proposals, on the other hand, were so far-reaching that Cabinet endorsement was essential for planning to proceed with confidence:

For nearly a century our policy in Malay has pivoted on the recognition of the independent local status of the Rulers, and there can be no doubt that the new treaties, if negotiated, will destroy their independence. No further treaties will ever again be necessary. I regard it as most important that the Cabinet should be fully aware of this reversal of policy which is fundamental in its importance.

If it was finally decided to proceed with the new policy, the question of tactics also required Cabinet sanction:

It is also necessary for me to know whether HMG is prepared to go so far as to remove from office any Sultan who refuses to sign away his independence.

More positively, Hone was also anxious for some guidance on "how far I should come out into the open when negotiating the new treaties with the Sultans":

Am I to say frankly that this is a step towards setting up a new constitution? If I do, I must be in a position to tell the Sultans roughly what the new constitution is to be and what part they themselves may expect to play in it. I must have good arguments in favour of such a new constitution and, if possible, I must be able to give something in exchange for what I am taking away. If, in the case of Johore, I could promise a piece of Malacca, and, in the case of Kedah, I could promise Province Wellesley, I should have bartering cards of great value. Is the Cabinet likely to provide me with these weapons? And what about a bit of Siam for Kelantan and Perlis?

Even if the Cabinet finally endorsed the fundamental change of policy it must further clarify the degree of jurisdiction which the Rulers would be asked to surrender to HMG. Would the Cabinet favour an enhanced version of the pre-war Federation model or would it prefer a "Union" of all the Peninsula States? So far, planning had proceeded

along the lines that a "Federation" of the Malay States - with clearly defined Central-State division of powers - was desirable. Such a conception, by permitting the Malay Rulers and their subjects some measure of administrative responsibilities in the affairs of their own States, was clearly consistent with HMG's long-term objective of training the Malays for self-government. But, cautioned Hone, the record of the pre-war decentralisation policies had demonstrated that any policy which "strengthens the State Governments can only result in emphasising the individuality of the State Governments, thus making the ultimate union more and more impossible." Indeed, it could be fairly argued that in adhering to the previous policies, HMG had in fact been "leading the States down a road which can never lead to ultimate independence, but rather pledges them indefinitely to the protection and tutelage of a strong outside Power." Any attempt to revive "Federation" would unwittingly lead to unhealthy comparisons with HMG's declared commitment to decentralisation in the pre-war period and the "strong case on political grounds" for giving the Rulers more control of their own domestic affairs. The theoretical justification for a federal government for Malaya furthermore "did not really exist": the Malay States did not exhibit any strong "local" differences and practically all important problems were "common" to all parts of the Peninsula. An examination of the laws of the pre-war Federation showed, for instance, that in almost every subject for which the Federation had not legislated, almost identical laws had been passed in every FMS State; in the UMS, nearly all the Federal laws had also been adopted as State laws. "In these circumstances", argued Hone, "it is very difficult to see how a true Federal system of Government for the whole of the Malay Peninsula can be justified":

It all boils down to the fact that any constitution based on the Federation idea is born only of the desire to retain the office of Sultan in each State. In fact, the policy is based on sentiment instead of common sense ...

"Common sense", surmised Hone, "urges union". The Malay States all shared common interests; they were predominantly of the same race, characteristics and tradition. Had it not been for the British presence in the Peninsula, Hone opined that it was probable that two or three

"powerful potentates" would have emerged to rule the Malay States. Indeed, it was even probable that at some point one "supreme Sultan" might eventually unite the whole Peninsula under his authority. But, as Hone admitted, "with our present policy no such development can ever take place." Small States, on the other hand, would sooner or later be assailed with many difficulties, "and the lesson is that wherever possible small countries should unite with others of like race and traditions." A real Union, nevertheless, presented difficulties. It could only be achieved by the "elimination of the Sultans one by one until, by a progressive fusion of States, we were left with one State and one Sultan. I doubt if this is practical politics." One possible solution to the problem, Hone ventured, was to form a "Board of Sultans", a sort of "second chamber" presided over by the Governor-General, exercising jurisdiction jointly over all the States. All the Sultans would sign laws of a general nature which would be applicable to all the States; finance would be centralised completely under the legislative council presided over by the Governor, although the Rulers would be given some say in the allocation of the budget among the various States. Power would then be devolved by the Central Authority to the States to deal with specific local problems. The advantages of Union, as Hone saw them, were so obviously self-evident that "one [should not] refrain from flirting with the idea." Only if Union proved impractical should the "next best" model - Federation - be attempted.<sup>103</sup>

Hone's arguments proved persuasive. On 30 July the Eastern department endorsed his plans for a "Malayan Union". Partly to compensate the Sultans for their loss of power and prestige under the new scheme the Colonial Office also agreed to Hone's recommendation for a "Chamber of Princes" but emphasised that it would have no governmental function. Although State administrations would be preserved in view of Britain's obligations to the Sultans, they would have no power except those derived from the Central Authority. The Colonial Office, however, wanted the deprivation of the powers of the Sultans to be complete: even "Malay religion and custom", which had been excluded from the province over which British residents or advisers possessed control

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103. Ibid.

under the Anglo-Malay Treaties, would now come under the "regard" of the Central Authority. Since the phrase was "difficult ... to define with any precision" the Colonial Office feared that it would "offer extensive opportunities for obstructions by local authorities."<sup>104</sup>

A preliminary Cabinet paper outlining the proposals was subsequently drawn up by the Eastern department and submitted for the Colonial Secretary's consideration towards the end of August.<sup>105</sup> Stanley, however, much engrossed with his forthcoming visit to West Africa, was not prepared to commit himself to the policies without careful and prolonged study. He commented, however, that the presentation of the memorandum to the War Cabinet would have to reflect the urgency of undertaking such planning at the present time; otherwise, he feared, the War Cabinet might well consider such matters as "premature" as had happened in the case of Burma. Nevertheless, he thought that the moment was opportune to invite other interested departments for their comments before he committed himself to a decision on his return.<sup>106</sup>

The reception to the Colonial Office's memorandum was generally favourable. The War Office found the proposals based on "sound commonsense" and opined that from the perspective of post-war strategy it was important for HMG to possess "full rights in Malaya in the matter of defence" which would be essential for the maintenance and security of Singapore and the communications lines in the region.<sup>107</sup> If the Sultan could be persuaded to cede fuller jurisdiction to the Crown than he had before, then it would be possible for the War Office to exercise those defence powers "more expeditiously and conveniently than was the case under the complex constitutional arrangements in force at the time of the Japanese invasion."<sup>108</sup> Nevertheless the War Office was concerned that the proposals should be acceptable to the local authorities and peoples: "It is possible that some of the Sultans may not welcome these negotiations, with the result that there may be a danger of unrest with a consequent increase in the internal security

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104. CO Minute, 30 Jul. 1943, Ibid.

105. Gent to Gater, 30 Aug. 1943, Ibid.

106. Gater to Gent, 2 Sep. 1943, Ibid.; see CAB 65/34 WM 54 (43) 3, 14 Mar. 1943; cited in Tarling, p. 56.

107. Bovenschen to Gater, 17 Nov. 1943, CO 825/35 no. 55104/1; Minute by T.E. Williams, 26 Oct. 1943, WO 106/4595.

108. Bovenschen to Gater, 17 Nov. 1943, CO 825/35 no. 55104/1.

commitment. The negotiations should not take place, therefore, until the G.O.C. considers that they may safely start."<sup>109</sup>

The Admiralty concurred: strengthening the administrations of Malaya and Singapore "directly affects their defence." Nevertheless, the Admiralty had reservations about the separation of Singapore from the Mainland: "an area which must be considered as a whole for purposes of defence, should not be divided for purposes of administration." Alternatively, it proposed that for Singapore to be defended "in depth" the authority administering the Naval Base should include the adjacent territory of Johore on which the defence of Singapore would depend. One possible solution, suggested the Admiralty, was to put Singapore and the whole area of its defence under the administration of the Governor-General. This had also been suggested by the Air Ministry which wanted the Governor-General to assume defence duties and be made directly responsible for centralising RAF requirements in the area.<sup>110</sup>

The Colonial Office felt it could not accommodate the Admiralty's recommendations concerning Singapore. Any partition of Johore, for instance, would "wreck" the chances for a Union on the Mainland. Nor could it give the Governor-General direct administrative responsibilities in Singapore, fearing that he would become associated with the special economic interests in Singapore and "revive the objections in the old arrangement" whereby the Governor at Singapore was also High Commissioner for the Malay States. The Colonial Office however agreed with both the Admiralty and the Air Ministry that the Governor-General's duties ought to be expanded to include defence co-ordination.<sup>111</sup>

The Foreign Office, on its part, was more concerned that hostile critics, particularly Americans, could plausibly argue that the scheme, far from advancing self-government in Malaya, was in fact a "reactionary move to establish British 'imperialism' more firmly than before."<sup>112</sup> The Foreign Office recalled that in a recent meeting between its Parliamentary Under-Secretary and Senator Lodge in the United States,

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109. Minute by F.E.W. Simpson, 31 Oct. 1943, WO 106/4595.

110. C.H.M. Waldock to Paskin, 17 Oct. 1943, CO 825/35 no. 55104/1.

111. Minute by Monson, 5 Nov. 1943 and 18 Nov. 1943, Ibid.

112. Minute by L.H. Foulds, 21 Sep. 1943, FO 371/35927 no. 1953; see also Ashley Clarke to Paskin, 17 Nov. 1943, CO 825/35 no. 55104/1.



the latter threw out a suggestion that in future the reality of British authority in Malaya ought to be maintained behind a facade of ostensibly independent Rulers - "the opposite of what the C.O. here propose."<sup>113</sup>

To make the Malayan Union policy more acceptable to the Americans the Foreign Office thought it would be necessary to "play up" and be more specific about the plans for developing the Malayan Union into an independent self-governing unit in which Penang and Malacca would be fully incorporated.<sup>114</sup> As one official put it, "We might get away with direct British rule for a bit on the grounds that it was necessary to protect minorities, reconstruct the economic ravages of war and to develop genuine democratic as opposed to autocratic self-government."<sup>115</sup>

As for the separation of Singapore the Foreign Office agreed that a further advantage was the "likelihood of its being one of the key points of a future international security system. If it were to be used as a base in such a system there would clearly be advantage in its administration being separate from that of the neighbouring territories." On the question of fresh treaties, the Foreign Office presumed that the Colonial Office was satisfied that this could be brought about "without the exercise of such pressure as might react unfavourably on world opinion."<sup>116</sup>

Lest it be assumed that the Colonial Office's Malayan policy encountered no serious opposition thus far, it should be noted that one of the most critical analyses of the plan's shortcomings came from within its own ranks. Sydney Caine, the Colonial Office's Economic Adviser, reacted strongly to the proposed separation of Singapore from the Mainland and saw it important enough to "place on record"<sup>117</sup> his opposition to the policy. As he saw it, both Singapore and Malaya were economically interdependent and it would be "entirely mischievous" to encourage the conception of their interests as distinct and necessarily opposed as a basis for separation:

They depend on one another, and it would be just as foolish to suppose that Singapore could exist

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113. Minute by Foulds, 21 Sep. 1943, FO 371/35927 no. 1953.

114. Minute by Sir A. Blackburn, 15 Nov. 1943, Ibid.

115. Minute by Lord Hood, 12 Nov. 1943, Ibid.

116. Ashley Clarke to Paskin, 17 Nov. 1943, CO 825/35 no. 55104/1.

117. Caine to Gent, 1 Dec. 1943, Ibid.

without the mainland community behind it as to suppose that the tin and rubber producers of the mainland could make profits if they had no merchants to market their produce for them. What we ought to do is to encourage the idea that they need each other and must co-operate with each other ...<sup>118</sup>

If differences existed - and these would be true of any other individual section of the mainland - it was far more likely that they could be more "amicably" settled within the framework of a single Government than if they had to be "thrashed out at a high plane between independent Governments." Caine feared that separation could also create racial difficulties in future and hamper the growth of a Malayan national consciousness:

It is not an easy step from the proposition "Because Singapore is nearly all Chinese in race, it cannot be part of Malaya" to the proposition "Because Singapore is nearly all Chinese in race it ought to be part of China." I have always myself believed that Malaya's comparative freedom from communal disorders has been the result of a broadly non-discriminatory policy as between the different races. I believe that we have everything to gain by blurring and not by sharpening the distinctions between one race and another in the peninsula.<sup>119</sup>

Defence considerations and administrative convenience, Caine argued, further called for a closer union between the Island and the Mainland.<sup>120</sup>

Gent, however, was in no mood for fundamental changes at this late stage when Cabinet approval was about to be sought. Brushing Caine's arguments aside, he asserted that the political advantages far outweighed any economic grounds for non-separation:

"Our first and foremost object is to secure a unification of the Malay States. That must be the essential basis for any larger union. It is the general view of those with experience that this will be assisted by the non-inclusion

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118. Caine to Gent, 30 Nov. 1943, Ibid.

119. Caine to Gent, 1 Dec. 1943, CO 825/35 no. 55104/1.

120. Caine to Gent, 30 Nov. 1943, Ibid.

of Singapore at any rate at the first stage.  
That in itself is a very important and almost  
overriding argument.

Singapore was a city of mainly Chinese immigrants and it would continue to have that character so long as its chief function as an international seaport and market are maintained. Its contribution to Malayan national consciousness would therefore be "less than nil". Administrative convenience could be met in essentials under the new scheme while on defence grounds the separate treatment of Singapore had already been tacitly agreed by the Service departments. Gent did not believe that the Admiralty's argument that the defence of Singapore depended on resistance on the mainland could be sustained: the loss of Singapore "was due to our loss of sea power." Singapore in itself was therefore worth defending as a naval base.<sup>121</sup>

Early in December, Stanley considered the draft Cabinet paper. Probably with the Burma example still fresh in his mind, and possibly also because of the political and legal "complexity" of the Malayan case, Stanley decided against approaching the War Cabinet directly for approval. Instead, he surmised that, tactically, the best course would be to defer the examination of the specific proposals by the War Cabinet until they had been first considered by a Cabinet Committee. Since the War Office, at the same time, was preparing its own memorandum on the establishment of the military administration in Malaya and the division of responsibilities between the War and Colonial Offices on military and constitutional questions for Cabinet approval, the Colonial Office requested, and secured, War Office support for a joint representation to the War Cabinet recommending the establishment of a Cabinet Committee. On 6 January 1944 the War Cabinet finally sanctioned the creation of a Cabinet Committee to "consider" long-term Malayan problems and to "recommend" to the War Cabinet a directive upon which official planning for Malaya could usefully proceed.<sup>122</sup>

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121. Gent to Caine, 1 Dec. 1943, Ibid.

122. CAB 65/41 W.M. (44), 6 Jan. 1944.

## CHAPTER THREE

## THE CREATION OF MALAYAN UNION CITIZENSHIP

In Malaya the problem for Britain after the war is likely to arise, not from Malay nationalism - which hardly exists as a coherent political force - but from the claims of the Malayan Chinese to political rights.

G.F. Hudson, 3 August 1942.

## I

Even while the form of the new Malayan policy was being considered between mid-1942 to December 1943, British planners had also been pondering over ways to resolve yet another outstanding issue from Malaya's pre-war legacy - the question of political status and rights for Malaya's non-Malay communities.

From the outbreak of the war in Malaya to until the latter half of 1943, Colonial Office planners remained largely undecided about how to resolve the problem. The pre-war "pro-Malay" policy remained very much in force during the early phases of constitutional planning for Malaya. As Gent argued in his preliminary memorandum on future policy in the Far East on 3 July 1942:

Our declared policy has also been to promote the well being and efficiency of the Malay peoples and their educational fitness to fill the official Services in their own territories. The continual and legitimate fear of the Malays has been that they would be swamped by the more efficient and numerous Chinese and to a lesser extent the Indians. Chinese immigration has been controlled for this reason and limited to the economic capacity of the tin and rubber industries. These policies are in the interests of the people of the country and should be maintained for their paramount advantage.]

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1. Memo. by Gent and MacDougall, "Note on Future Policy in the Far East", 3 Jul. 1942, CO 825/35 no. 55104.

This was also the conclusion of a memorandum drawn up by the Foreign Research and Press Service for the Foreign and Colonial Offices in August 1942. The rights of the Malays as "the people of the soil", the memorandum noted, should be safeguarded and the claims of the Chinese should only be considered "in so far as they do not infringe [HMG's] obligations to the Malay States." In view of the numerical strength, economic power and political organisation of the Chinese community, the memorandum warned that any move to give the Chinese widespread political rights "must tend towards giving [them] effective control of the country."<sup>2</sup>

No serious consideration of nationality questions therefore transpired in the Colonial Office until early March 1943 when, in connection with plans for the constitution of a "Federation" excluding Singapore, the Colonial Office broached once again the question of granting British Protected Persons status to Chinese domiciled in the Malay States. This, asserted the Colonial Office, was a matter of "political importance" since the Malay Rulers would never have been ready to recognise the Chinese, however long established in their States, as being nationals of these States.<sup>3</sup> From March, the Colonial Office had also received a number of memoranda from former residents who had escaped from Malaya urging for a reconsideration of the question of political rights for the non-Malays. H.A.L. Luckham, for instance, argued in his memorandum that the pre-war practice of preserving only Malay rights and privileges was indeed counter-productive since it would work against the development of a Malayan consciousness so vital for the future political progress of Malaya. Such a policy, Luckham added, "seemed to say to the non-Malays, 'Malaya is not your country. You may settle here for the time being, make money and pay us taxes; but when we do without you, we will do without you.'"<sup>4</sup>

In April 1943, the Colonial Office had also received representations for the creation of some kind of "Malayan citizenship" from two

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2. Memo. by G.F. Hudson, Aug. 1942, Ibid.

3. "Plans for constitutional reconstruction in Far East", 9 Mar. 1943, CO 825/35 no. 55104/1.

4. See Memo. by Luckham, "Some Causes of the Loss of Malaya", 30 Mar. 1942, CO 825/35 no. 55104/1/3. Luckham had sent his memo. to J.M. Martin of the CO on 30 Jun. 1942. Martin subsequently referred it to Gent on 12 Mar. 1943. Prior to the war, Luckham was a District Officer in Tampin.

Malays engaged on official propaganda work in India. The first was a memorandum submitted by Tengku Mahyiddeen, a member of the Kelantan royal family, who urged that a "Malayan citizenship" should be created "whereby all races born and domiciled in Malaya ... will be given the right to renounce their previous nationality and acquire Malayan citizenship, and thus enjoy the same political and other rights as the Malays." Mahyiddeen further envisaged the creation of a "Malayan Assembly", consisting of elected representatives, with both Malay and non-Malays "equal in number" and with franchise given to all literate Malayan citizens, men and women above eighteen years of age, for the first five years after which only those who passed at least standard five in the Malay schools might be given the franchise.<sup>5</sup> Mahyiddeen's recommendations had the concurrence of another Malay, M. Suffian Hashim, who worked for the Malay Unit in the all-India radio. In a letter to Sir Richard Winstedt, a senior retired MCS official working for the Malay section of the BBC in London, Suffian similarly urged that a citizenship policy be enacted to "solve the Chinese problem". Drawing from his three months' experience in Ceylon, Suffian observed that Ceylon used also to have an Indian problem which had been tackled quite effectively by having over and above British nationality something which might be called Ceylon citizenship. Although not entirely satisfactory, Suffian opined that this was "at least better than the confused state of affairs which are allowed to prevail in Malaya." Too protective a policy for the Malays, he argued, would be disadvantageous to the Malays themselves for this "deadens energy and kills initiative. And it is high time the Malays are gingered up one way or another."<sup>6</sup>

The idea of a "Malayan citizenship" had also been advocated by the Association of British Malaya, consisting of ex-Malayans in England. In a memorandum to the Colonial Office in May, the Association asserted that it was essential to face the fact that many non-Malays "have acquired what is virtually a Malayan domicile and will expect to enjoy political rights and their fair share in the administration." The anomaly

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5. Memo. by Mahyiddeen, n.d., Ibid.

6. M. Suffian Hashim to Winstedt, 27 Feb. 1943, Ibid. Winstedt informed Gent about the contents of Hashim's letter and his reply on 11 Apr. 1943; see Winstedt to Gent, 11 Apr. 1943, Ibid.

of the British "protected-person" in Malaya, the Association argued, should be abolished and all persons possessing or acquiring Malayan domicile for a period of not less than seven years and who had renounced allegiance to any foreign power should be entitled to British nationality and be given political rights.<sup>7</sup>

If the Colonial Office had been urged to implement a new nationality policy, it had also at the same time received representations from other ex-Malayans who warned against a shift in Britain's traditional "pro-Malay" policy. Commenting on Mahyiddeen's proposals, Winstedt feared it would end in the "eclipse of the Malays" as there were hardly enough educated Malays to play a dominant role in a Malayan assembly. Nor was there, as yet, a competent Malay electorate. "Chinese and Indians would dominate", Winstedt surmised: "The Malay rakyat would sell his vote to any one and think he was cute."<sup>8</sup> Fears of the Chinese, and of their intentions to take power in Malaya, had also been expressed by Roland Braddell, a leading Singapore lawyer and a personal friend and legal adviser of the Sultan of Johore, who argued that unless the Malays were kept under British protection "they will disappear". The Chinese, Braddell observed, were already thinking that the country "will be theirs when the war is over."<sup>9</sup> Others like Sir Theodore Adams, the former British Resident in Selangor from 1932 to 1936, had doubts about the willingness and ability of the Chinese to divest themselves of their Chinese nationality and to identify themselves wholly with the Malays as partners in the new Malaya: "Most do not wish to do this; those that would do so (and there are some) dare not do so. They cannot escape the Chinese political and economic control. Even those who have lived in Malacca ... are Chinese first, looking to China, and only British subjects when their local interests demand this."<sup>10</sup>

The Colonial Office appreciated the arguments of the "pro-Malay" lobby for the need for safeguards for the Malays, but recognised at the same time that a policy of ignoring the rights of the immigrant

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7. Memo. by Association of British Malaya, May 1943, CO 825/35 no. 55104/1/7.
  8. Memo. by Winstedt, 11 Apr. 1943, CO 825/35 no. 55104/1/3.
  9. Braddell to Gent, 27 Nov. 1942, CO 865/14 no. M101/1.
  10. Memo. by Adams, 9 Jun. 1943, CO 825/35 no. 55104/1/3.

communities would be, as Gent had put it in September 1941, a "barren policy".<sup>11</sup> The principle that deserving non-Malays should not be denied political rights in Malaya must therefore be accepted. But so long as HMG possessed no clear jurisdiction in the Malay States, the Colonial Office saw all such discussions as purely of academic interest only: "So far, His Majesty has not possessed even a 'scintilla of jurisdiction'. This has been difficult administratively since it has not been possible ... to establish the status of Chinese born in a Malay State as British protected persons."<sup>12</sup>

Towards the end of July 1943, the situation changed significantly. By then, the Eastern department, in connection with the planning for its main Malayan Union policy, had provisionally endorsed the policy of wresting complete jurisdiction from the Sultans<sup>13</sup> - in effect paving the way for HMG to "give such status as we consider reasonable to the immigrant population" as Hailey had earlier alluded.<sup>14</sup> Once jurisdiction was secured by fresh Treaties with the Sultans after the war, HMG could then legislate by Order-in-Council under the Foreign Jurisdiction Act to confer on these non-Malay persons domiciled in the States the status of British Protected Persons.

From June 1943, the Colonial Office had also moved towards a more progressive policy with regard to Chinese affairs in Malaya. The immediate reason was the need for a directive on Chinese policy for the guidance of the military authorities during the period of military reoccupation after the war. Given the new Sino-British wartime alliance relationship, British policy towards China and her overseas settlers would now have to be put on a new forward-looking basis. Within the context of a general reappraisal of Anglo-Chinese relationship, the issue of the status and political rights of the Chinese in Malaya could not therefore be avoided. Interest in nationality questions rekindled. As Paskin observed in December, referring to the development

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11. Minute by Gent, 23 Sep. 1941, CO 273/667 no. 50429, cited in C.M. Turnbull, "British Planning for Post-war Malaya", JSEAS, 5, 2 (Sep. 1974), 242.

12. "Plans for constitutional reconstruction in Far East", 9 Mar. 1943, CO 825/35 no. 55104/1.

13. See Chapter 2, pp.73-74.

14. Hailey to Gent, 19 Apr. 1943, CO 825/35 no. 55104/1.



of the directive on Chinese policy: "So far we have only been considering the matter from the point of view of relations with China. But we shall also have to consider the extent to which, and the means by which, the Chinese communities in Malaya can be associated with the machinery of government there (both central and local)." The consideration of such matters, Paskin added, "will only lead on to the corresponding question of the parts to be played by the other racial communities in the government of the country, as to which we shall almost certainly be asked for proposals in the not distant future."<sup>15</sup>

In anticipation of the approval of the main Malayan Union policy, a working committee consisting of Paskin and Monson together with three MPU officials - E.V.G. Day, A.T. Newbould and V. Purcell - was convened on 17 December 1943 to draw up proposals whereby the Chinese, as with the other racial communities, could be associated more closely with the machinery of Government. The committee, however, found that it could not proceed further in its deliberations without first resolving the "fundamental question as to the persons who should be regarded as 'belonging to' the Malayan Union."<sup>16</sup> To clarify the matter, the committee met again on 22 December to examine certain legal instruments for their relevance to the Malayan case. The committee had assumed all along that, upon the assumption of jurisdiction by HMG in the Malay States, Britain would be in a position to declare Chinese born in the Malay States as British Protected Persons. An examination of the British Protected Persons Order-in-Council, however, showed that this might be problematical since it explicitly excluded from the definition of "persons belonging to" the territories scheduled to the Order persons born there who already possessed nationality under the laws of another State. As the Chinese possessed dual nationality they would almost certainly be excluded. The most plausible course, as the working committee saw it, was to recommend the creation of an entirely new Malayan Union Citizenship by a separate Order-in-Council. Three categories of persons could be considered for Malayan Union Citizenship: (1) persons born in the Malayan Union either before or after the date of the Order-in-Council (it was for further consideration whether persons born in Singapore before or after the implementation of the Order-in-Council should be similarly regarded as entitled to citizenship); (2) British subjects either immediately or with some further qualifications;

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15. Memo. by Paskin, 7 Dec. 1943, CO 825/35 no. 55104/1/6.

16. Paskin to Gent, 23 Dec. 1943, CO 825/35 no. 55104/1/9.

(3) persons who were "habitual residents" (it was for further consideration whether some qualification - such as naturalisation - would be necessary).<sup>17</sup>

A draft statement of policy on Malayan Union Citizenship was subsequently drawn up and considered by the Colonial Office's own legal advisers in February 1944. One of the immediate issues raised concerned the proposal to open Malayan Union Citizenship to those born and resident in Singapore, partly to preserve the close pre-war links between the Island and the Mainland and partly to ensure that the subsequent inclusion of Singapore would not be prejudiced. But, as Roberts-Wray, one of the Colonial Office's legal advisers, pointed out, it seemed inappropriate to extend the "logic" of the proposal "indefinitely" so that when Singapore and the Malayan Union become two separate entities, "birth or residence in Singapore will confer political rights which flow from Malayan citizenship on persons who may never have been in the Malayan Union." He feared that the demand for "reciprocity" would be "irresistible" and there might indeed be some disadvantage "in giving all citizens of the Union the freedom of Singapore."<sup>18</sup> Paskin, however, was doubtful that the question of reciprocity would arise since a Singapore "citizenship" was not contemplated and the ordinary qualifications of a British subject would continue to operate on the Island. Nevertheless, he was personally disposed to limit the conditions of birth or residence in Singapore to apply only to the period before the Japanese occupation.<sup>19</sup>

Early in May 1944 a draft directive on citizenship was subsequently drawn up by the Eastern department.<sup>20</sup> It recommended that two categories of persons would automatically acquire Malayan Union Citizenship: those born in either the Union or Singapore; and persons who had been ordinarily resident in either territories for ten years out of the preceding period of fifteen years which would exclude the period of Japanese occupation. A person could also acquire citizenship on application after five years' ordinary residence in either the Union or Singapore (under conditions analogous to those laid down in

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17. Minute by Monson, 22 Dec. 1943, Ibid.

18. Minute by Roberts-Wray, 3 Feb. 1944, Ibid.

19. Minute by Paskin, 9 Feb. 1944, CO 825/42 no. 55104/1/9.

20. Minute by Paskin, 5 May 1944, Ibid.

Section 2 of the British Nationality and Status of Aliens Act, 1914). Successful applicants would be granted certificates of naturalisation and required to take an oath of allegiance to the Government of the Malayan Union. British subjects would not lose their nationality upon being granted Malayan Union Citizenship. The possession of citizenship was also intended to be a qualification for various municipal purposes, like admission to the Public Service or appointment to membership of the local councils. With the approval of the main Malayan Union policy by the Cabinet on 31 May 1944, a revised draft of the citizenship directive was subsequently submitted to the Secretary of State on 16 June and approved by him three days later.<sup>21</sup> For the first time equality of citizenship rights for the non-Malays had been accepted as a cardinal principle in the new Malayan policy. Conversely, it represented a major departure from the traditional British policy which had always maintained that Malaya was primarily a Malay country.

## II

To be sure, cracks in Britain's "pro-Malay" policy were already evident in the decades before the war with Japan. Amongst reform-minded officials in Whitehall, the Sultanates were frequently perceived as an "anachronism"<sup>22</sup> and the Rulers themselves reprehended for their obstructiveness to British advisory rule. That it was a "mistake to bolster up the power of these petty Rulers" few of these officials doubted: "The future of Malaya", argued Ellis, for instance, "lay in the hands of the Chinese and Indians."<sup>23</sup> Impatient with the "excessive pro-Malay bias" of the traditional policy, Gent himself had argued for a "fair field" to be presented for all races alike.<sup>24</sup> But despite the disillusionment among some official quarters with the Sultans, British policy followed closely the traditional pro-Malay line before the war. And given Britain's declared commitment to a policy of decentralisation in the Malay States, official conservatism prevailed.

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21. Minute by Stanley, 19 Jun. 1944, CO 825/42 no. 55104/1/9.

22. "Note of Conference at the Colonial Office", 16 Mar. 1931, CO 717/76 no. 72483.

23. "Note of Conference at the Colonial Office", 15 May 1931, CO 717/81 no. 82395.

24. Minute by Gent, 12 Dec. 1933, CO 717/101 no. 13467.

The Japanese invasion, however, radically altered pre-war perceptions and accentuated the cracks already present. The rapid and sudden collapse of British power in Malaya was interpreted by some as demonstrating not only the structural vulnerability of an administratively fragmented constitutional polity but also the inherent weakness of a population divided racially and politically for defence purposes. That a "pro-Malay" policy was inimically opposed to the creation of a "Malayan consciousness" was pointedly impressed upon the Colonial Office by the object-lesson of the Japanese invasion. As Luckham had pointed out in his memorandum to the Colonial Office cited earlier: "One of the most vital necessities in the defence of any country is that there should be a strong spirit of patriotism and loyalty to and confidence in the rulers of the country. The failure to develop this was one of the major failings of the Malayan Governments." It was sheer "folly", Luckham argued, for the British to concentrate on developing loyalty to the Sultans - believing that once they could be "sure of the rulers [they] would be certain of the strong support of all Malays" - for this only encouraged the development of "separatist Malay nationalism; a selfish nationalism which demanded a privileged position for Malays within the states." Not only would this "poor form of patriotism" fail to galvanise the Malays, it would also, at the same time, alienate the non-Malays, "Emphasis on Malay rights and privileges", Luckham argued, "led to the assertion that non-Malays had no rights in the country." What the Colonial Office must do, Luckham advised, was to devise a more progressive policy that would strengthen "the will of the people of Malaya to work for the country and, if necessary, defend it."<sup>25</sup> Luckham's memorandum apparently made a good impression<sup>26</sup> on the Colonial Office which discussed it sometime in April 1943 for, two months later, Gent was arguing that "some indeed have not hesitated to attribute to this [pro-Malay] policy our alleged failure in war

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25. Memo. by Luckham, "Some Causes of the Loss of Malaya", 30 Mar. 1942, CO 825/35 no. 55104/1/3.

26. Gent, for instance, remarked that it offered "much food for thought" while Monson, obviously impressed with Luckham, suggested that he should be rewarded with "a hope that he will not be left in Kenya for the rest of the war." In 1945, Luckham returned with the reoccupation forces to Malaya. See Gent to Martin, 19 Apr. 1943, CO 865/14 no. M101/1; Minute by Monson, 15 Apr. 1943, CO 825/35 no. 55104/1/3.

time to secure the full co-operation of the Chinese in Malaya."<sup>27</sup> And by June 1944, the need for some association amongst the various communities was recognised in the proposals for Malayan Union Citizenship. As Gent put it: "The development of a sense of common citizenship in Malaya is important for political progress in general and as a basis for linking the various communities in the country."<sup>28</sup>

Further cracks in Britain's "pro-Malay" policy occurred probably as a result also of allegations of fifth column activities by the Malays during the Malayan campaign and reports of collaboration by the Sultans with the Japanese. Reports of Malay fifth column activities became evident as British troops fought a rear-guard action in Malaya during the withdrawal down the Peninsula. An account by Lieutenant L.L. Rendle of the FMS Volunteers, for instance, recorded that "[n]early the whole of North Malaya proved to be rotten with Malay Fifth Columnists." He added:

Intelligence had been informed that certain Malay spies were wearing black sarongs and batus to identify themselves to one another and many were caught on this information. One spy thus caught and whom I saw shot actually had a 3rd Corps Operational Order on him concerning the withdrawal into the Kuala Kangsar area ... it was discovered that Malays were betraying the positions of parked M.T. Coys, troop positions, Advanced Divisional H.Q. Batteries, etc., to Japanese reconnaissance aircraft by such simple signals as a large white sarong stretched on the ground nearby, as if to dry from recent washing ... At this time, too, Malays in Johore were caught at night throwing spiked boards onto roads to puncture tyres of M.T. supply convoys proceeding north."<sup>29</sup>

Reports which the Colonial Office received from private and departmental sources also partly collaborated the impression that the Japanese had been assisted in their advance to Singapore by the local inhabitants. One report which the Colonial Office took special notice was an account given by V. Radharkrishnan, a Lieutenant in the Straits Settlements Volunteers who had escaped in May 1942 and made his way to

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27. Gent to Paskin, 27 Jun. 1943, CO 825/35 no. 55104/1/3.

28. Gent to Gater, 16 Jun. 1944, CO 825/42 no. 55104/1/9.

29. See "Fifth Column Activities in the Malayan Campaign, 1941-2", n.d., in WO 203/4036, no. 438/3.

to India. These passages from Radharkrishnan's memorandum which the Colonial Office received in February 1943 were carefully marked:

The Japanese were very cordial with the Malays ... There was much fifth column work in favour of the Japanese ... When the Japanese entered [Singapore] many Malays came with them some of whom wore the same uniform as the Japanese soldiers. I myself saw two Malays dressed in this way.<sup>30</sup>

Reports of the Sultans' obstructiveness during the Malayan campaign and their alleged co-operation with the Japanese after the fall of Singapore also dismayed the Colonial Office. Efforts to remove the Sultans out of Malaya to safer havens in Australia and India were met by stiff resistance from the Rulers themselves who refused to be separated from their subjects.<sup>31</sup> Early in April 1942, the Colonial Office had also received intercepted Domei reports from Singapore of the nine Sultans declaring their allegiance to Japan and congratulating the Japanese commander on his "brilliant" victories over the British.<sup>32</sup> Commenting on these reports, one Colonial Office official stiffly remarked: "These enemy reports should be put on record. There is, of course, no proof that they are correct but, assuming the worst, they have an obvious bearing on: (1) The Prime Minister's promise that we would see the Sultans 'righted' in our day of victory:<sup>33</sup> (2) any reorganisation of the political structure of Malaya after reoccupation."<sup>34</sup> Reports received by the Colonial Office in July 1943 further substantiated accounts that the Sultans were collaborating with the Japanese. An intercepted report in July revealed, for instance, that the Rulers had paid warm compliments to the Japanese premier Tojo

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30. Memo. by V. Radharkrishnan, n.d. CO 273/669 no. 50744/7.

31. Cheah Boon Kheng, Red Star Over Malaya, (Singapore, 1983), p. 20.

32. See Domei report "Sultans of Malay States congratulate Yamashita", Apr. 1942, CO 717/147 no. 52035.

33. On hearing about the invasion of Malaya, Churchill, then in Washington, cabled the Colonial Secretary on 23 Dec. 1941 expressing regret that "They have always stood by us so well in the past and we can do nothing for them ... I presume that all assurances have been given that we will see them righted in final victory." Churchill to Moyne, 23 Dec. 1941, CO 537/1528 no. 50823 Pt I.

34. Minute by K.W. Blaxter, 15 Apr. 1942, CO 717/147 no. 52035.

on his visit to Malaya earlier in the month:

Welcoming Tojo, the Sultan of Johore, representing /the Rulers/ said: 'Today our hearts are filled by the supreme honour of welcoming your Excellency to Shonan ... We Asiatic races are profoundly moved by the brilliant accomplishments of Japan in the reconstruction of Asia by completely driving out Anglo-Dutch-American influences from this part of the globe.' Concluding he said: 'On this memorable occasion today paying our respects to your Excellency has made an indelible impression on us, and has served to renew our resolve to collaborate with Japan for the attainment of common goals of war.'<sup>35</sup>

The impression that the Malays were involved in fifth column activities and that the Sultans were collaborating with the Japanese contributed to the beginnings of British distrust of the Malays. Monson, for instance, took note that the Sultan of Johore played a leading part as spokesman for the Rulers in welcoming Tojo.<sup>36</sup> Later when efforts were made to establish resistance groups in Malaya it was to the Chinese that Force 136 personnel turned first - and Malay groups were contacted only a year later. As one writer commented: "The truth was that the British were generally suspicious of the Malays whom they believed to be favourably disposed towards the Japanese."<sup>37</sup>

If the war had precipitated a shift in Britain's "pro-Malay" orientation, it had unleashed demands also for a more sympathetic reappraisal of British policy towards the Chinese. Before the war, an undercurrent of "pro-Chinese" sympathy had already gained ground amongst some officials in the Colonial Office.<sup>38</sup> Nevertheless, suspicions about the Malayan Chinese's political loyalty and their susceptibility to subversion by either the Kuomintang (KMT)<sup>39</sup> or the

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35. See Daily Digest of World Broadcasts, "Tojo Receives Malayan Sultans", Jul. 1943, CO 273/669 no. 50744/7.

36. Minute by Monson, 10 Aug. 1943, Ibid.

37. Cheah, p. 80.

38. S. Caine, for instance, argued that the Chinese factor could not be wished away: "It is obvious that we can only continue to rule Malaya by the consent of its inhabitants, of whom the Chinese are the most important section." See minute by Caine, 25 Mar. 1929, CO 273/554 no. 62010 Pt I.

39. KMT branches were established in Malaya after the formation of the mother party in China by Sun Yat-sen in 1912. At first tolerated by the British authorities, the KMT was banned from Malaya in 1925 because of its "Bolshevik leanings". See C.F. Yong and R.B. McKenna, "The Kuomintang Movement in Malaya and Singapore, 1912-1925", JSEAS, 12, 1 (Mar. 1981), 118-132.

Malayan Communist Party (MCP)<sup>40</sup> precluded any move towards giving the Chinese a firm political stake in the country. After the Japanese invasion, such pre-war suppositions no longer held valid. Reservations about their political commitment to Malaya proved unwarranted when the Chinese, perhaps more than the other races, rallied stoutly behind the British authorities in the defence of Malaya. Both the MCP and the KMT, together with other Chinese organisations and community leaders, joined in setting up the Overseas Chinese Mobilisation Council to recruit people for civil defence, propaganda and for Dalforce, an independent fighting unit attached to the British army's Third Indian Corps.<sup>41</sup> As one Times correspondent put it: the Chinese took a "keen personal interest" in "fighting for their adopted home."<sup>42</sup>

Moral sympathy for the Chinese was further stirred when it became known that thousands of Chinese who had supported the Malayan authorities had also perished in large-scale revenge purges inflicted by their new conquerors. Gruesome accounts of Chinese massacres and Japanese brutality, which reached the Colonial Office towards the latter half of 1942 and early 1943, made grim reading for the staff of the Eastern department, as these two accounts received in February and March 1943 illustrated:

After the fall of Singapore numbers of Chinese were rounded up, forced to dig their own graves and then compelled to kneel in them. The Japanese officer present beheaded the first man in line after which the sword was wiped with a handkerchief and with the tip of his tongue he would lick the blood. A subaltern carried on beheading the rest of the victims. A second line of victims were then compelled to bury the first lot and prepare their own grave. These executions lasted for a period of ten days.<sup>43</sup>

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40. Formed in 1930, the MCP between Sep. 1936 and Mar. 1937 and again from Oct. 1939 to Sep. 1940 began to challenge the Malayan Government by fomenting massive strikes and labour unrest. See Yeo Kim Wah, "The Communist Challenge in the Malayan Labour Scene, September 1936-March 1937", JMBRAS, 64, 2 (1976), 36-79.
41. Cheah, p. 19.
42. The Times, 9 Feb. 1942.
43. Memo. by Radharkrishnan, n.d., CO 273/699 no. 50744/7.



All Chinese ... are summoned to assemble in an open space and made to squat for two days in the blazing sun and a night without food or shelter. None are allowed to leave or stand up. Some men who have been reported against for anti-Japanese activities in the past are removed to be summarily bayoneted ... Most of the men before being allowed to leave are given a severe beating without reason or cause ... A careful and minute search is then made of every house ... If unfortunately a British or Chinese flag, a Sun Yat Sen, Lin Sen or Chiang Kai Shék photograph is found the male members of the house are forthwith marched off to be summarily murdered.<sup>44</sup>

The knowledge that Britain had somehow failed the Chinese, who had been abandoned to bear the brunt of Japanese wrath, must have haunted the Colonial Office - for accounts of Japanese "atrocities"<sup>45</sup> were read by Whitehall officials in almost stunned silence. Comments in minutes were terse and few. Words would indeed have been superfluous amidst such descriptions of brutality.

A further contributory factor to the reorientation of British attitudes towards the Chinese stemmed also from their potential value as an underpinning bastion of community support for British rule in Malaya after the war. Aspects of this had already been demonstrated in the short collaboration in the defence of Malaya. From May 1943, a second step was taken to formalise even further the prospect of wartime military co-operation when Force 136 personnel were infiltrated into Malaya to organise resistance groups from amongst the Chinese, and particularly the communist Chinese.<sup>46</sup> Properly led and armed these resistance forces, assessed the Colonial Office, would be in a position to play "a very prominent part in helping us in any campaign to drive out the Japanese". In these circumstances, it would therefore be "impossible", upon the reoccupation of Malaya, to immediately "revive the pre-war embargoes"<sup>47</sup> on either the KMT or the MCP. Conversely, it reinforced the need for an enlightened policy towards the Chinese in order to galvanise their support in the war. After September 1943, when

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44. Report by Leong Yew Koh, 26 Feb. 1943, Ibid.

45. Minute by Monson, 16 Oct. 1942, Ibid.

46. Cheah, p. 73. See also C. Cruickshank, SOE in the Far East, (Oxford, 1983), pp. 193-196.

47. Memo. by Monson, 1 Sep. 1943, CO 825/35 no. 55104/1/6.

contact was established with the MCP guerrilla leaders in Perak,<sup>48</sup> questions about the "possibility of extension of political rights to [the] Chinese" or whether they would be "given any form of Malayan citizenship" no longer could be ignored,<sup>49</sup> for clarification of such matters was vitally important for the Special Operations Executive (SOE) principally engaged in authorising negotiations with the Chinese resistance forces, as expressed later in this communication between SOE and the Colonial Office in August 1944:

SOE have already been in touch with Resistance Groups in Malaya. These groups have already raised certain questions with regard to post-war conditions in Malaya, and it is of vital importance that we should be in a position wherever possible to give reasonable concrete answers ... The questions we would like to be able to answer are:

1. What form of citizenship if any will be available:
  - a. to those born in Malaya, and
  - b. those who have been domiciled there for a given period.
2. Will Organisations and Societies which were considered illegal before the war continue to be so considered?
3. From the point of view of civil rights and opportunities will such Chinese as may qualify for citizenship under No. 1 above be subject to discriminatory regulations?<sup>50</sup>

Given British distrust of the Malays, it must have also occurred to the Colonial Office that the Chinese would probably form the principal community that could be expected to undergird British rule in Malaya and afford, as Tan Cheng Lock, a prominent Chinese community leader, informed the department in his memorandum of November 1943, "a most loyal and valuable element in the Malayan population, willing and able to take a vital part in the defence of Malaya under British leadership should an occasion arise in future." As Tan suggested, the Chinese were ready to assume such a role "if properly and fairly treated" after the war. But to enable the Chinese to identify themselves completely with

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48. Cheah, p. 73.

49. A. Peterson to A. Lincoln (CO), 11 Nov. 1943, CAB 101/66 B/4/7.

50. S.F. Taylor to Gent, 12 Aug. 1944, Ibid.

the interests of Malaya, Britain must, on her part, "trust" the Chinese and open to them the right to acquire "Malayan citizenship". "That," argued Tan, "is the best and wisest course to adopt by way of solving the so-called Chinese problem in Malaya."<sup>51</sup> Tan's arguments must have impressed the Colonial Office for, by the following month, the Eastern department had also arrived at the same conclusion: the need for a new Malayan "citizenship".

So far, we have discussed the probable influence of political, moral and military factors on the Colonial Office's thinking about its post-war Chinese policy. There was, moreover, a further diplomatic dimension which significantly affected British calculations. What was worrying to the Colonial Office was not only the anticipated pressure for political recognition which the Chinese in Malaya would almost certainly exert in the post-war period, and which Whitehall would find almost impossible to resist, but also the more ominous prospect of a "rampantly nationalist"<sup>52</sup> KMT China looming behind, and collaborating with, the Malayan Chinese in support of their political claims. As Hone recalled;

It was foreseen, that the result of this would be the strongest possible support for the Overseas Chinese in Malaya and elsewhere, and that unless we took the initiative in formulating an equitable scheme for granting reasonable political rights to, at least a portion of, the Chinese population in Malaya, we should be probably forced by political pressure from a strong Nationalist Government in China to grant ad hoc concessions from time to time which would not be based on any well thought-out and co-ordinated scheme. The plan for citizenship ... was, therefore, the result of much research and consideration in the Colonial Office to meet a major political problem with which we expected to be confronted by the KMT.<sup>53</sup>

That the Chinese deserved a better deal in Malaya after the war few Whitehall officials contested. But, as the Colonial Office also realised, a "pro-Chinese" policy carried risks and was bound to put a

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51. Memo. by Tan Cheng Lock, 1 Nov. 1943, CO 825/42 no. 55104/1/3A.

52. Minute by Gent, 11 Apr. 1942, CO 825/35 no. 55104.

53. Hone to Gurney, 4 May 1949, CAB 101/66 B/4/7.

strain on Britain's relations with the Malays. A report by the Foreign Office's research department in August 1942, for instance, warned against the unwisdom of turning Malaya "into a Malay irredenta by bringing about a Chinese ascendancy there". The younger educated Malays, it noted, had already felt a strong sense of kinship with the "Indonesians" of the NEI and "sooner or later in the future it is quite likely that an 'Indonesian' nationality will emerge in the region which uses Malay as a lingua franca."<sup>54</sup> The same fears were echoed early in June 1943 by Sir Theodore Adams who warned that any attempt to renege on the "principle" of Malay precedence would force the Malays to "either turn to pan-Islam or to any foreign power which will help them not to be submerged by Chinese."<sup>56</sup> The Colonial Office, however, was not very "sanguine" about such pessimistic reports. As Monson argued:

The peninsula Malay has not been distinguished in the past for strong affection to Pan-Malayan ideals. He has felt loyalty to his particular Ruler or State and the Japanese by preserving (apparently after an early flirtation with a United Malaya) the State's framework will have kept that sense of regional loyalty alive.<sup>56</sup>

Although not discounting entirely Adams' apprehensions, Gent nevertheless opined that he had taken "insufficient account of the progressive elements among the Malays themselves and their own appreciation that it is not possible to maintain the old exclusiveness and reactionary attitudes towards Chinese and Indian settlers." Carefully handled, Gent believed it should be possible to proceed without "disastrous results" towards some conception of political rights for the Chinese.<sup>57</sup> In reality, the Colonial Office had little choice. Given its assumptions about the post-war attitudes of China and the Malayan Chinese, a reassertion of the traditional pro-Malay policy would have carried as much - if not greater and more unacceptable - political risks.

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54. Memo. by G.F. Hudson, Aug. 1942, CO 825/35 no. 55104.

55. Memo. by Adams, 9 Jun. 1943, CO 825/35 no. 55104/1/3.

56. Minute by Monson, 24 Aug. 1942, CO 825/35 no. 55104.

57. Minute by Gent, 27 Jun. 1943, CO 825/35 no. 55104/1/3.

## CHAPTER FOUR

CABINET APPROVAL AND PLANNING FOR THE NEW CONSTITUTIONS  
OF THE MALAYAN UNION AND SINGAPORE

We necessarily have to take a view of future arrangements and policies in Malaya in circumstances in which there is obscurity in some important factors in the situation.

Oliver Stanley, 17 Oct. 1944.

## I

Besides Oliver Stanley, the Colonial Secretary, the Cabinet Committee constituted on 6 January 1944<sup>1</sup> to deliberate the Malayan proposals comprised Lord Cranborne (Dominions Secretary), Leo Amery (India Secretary), Sir James Grigg (War Secretary), Sir Donald Somervell (Attorney-General), George Hall (Parliamentary Under-Secretary, Foreign Office), and Clement Attlee (Lord President of the Council) who presided as chairman. Of the ministers represented, the Colonial Office could be assured of the support of Cranborne who, as Colonial Secretary in the summer and autumn of 1942, had given strong impetus to the planning of the Malayan policy. Amery and Grigg, both of whom had already been approached informally by Stanley, and whose views were already known to the Colonial Office, were also expected to be supportive. Nor was it likely that Somervell would object to the new policy: the only other alternative to the procedure of negotiating new treaties with the Sultans was the less attractive and controversial option of annexation. As for the Foreign Office, which had already agreed to the proposals in principle, Hall, presumably, would be favourably receptive. The only member who might possibly dissent on ideological grounds was its chairman - Attlee.

Clement Attlee, as the leader of the Labour party, reflected a long tradition of Labour thinking on colonial issues. Earlier, in

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1. See Chapter 2, p. 78. See also A.J. Stockwell, British Policy and Malay Politics During the Malayan Union Experiment 1942-1948, (Kuala Lumpur, 1979), pp. 27-30.

September 1942, he had precipitated an ideological split in an informal ministerial discussion on the post-war settlement in the Far East when he alone spoke out forcefully for the "internationalisation" of British territories in South East Asia and warned that neither the Labour party nor the British electorate would be prepared to sanction bearing a financial burden in respect of the colonies for which the advantage mainly accrued to a "capitalist group".<sup>2</sup> Attlee's socialism presented the Colonial Office with a difficult dilemma. As chairman of the Committee, and also deputy Prime Minister, he was in a strong position in the Cabinet. His recommendations, therefore, invariably carried weight in Cabinet deliberations. But given his liberal and socialist predilections, the Colonial Office's ostensibly "imperialist" designs for Malaya risked also serious criticisms from him and the Left. It was also apparent to the Colonial Office that any ideological confrontation during the Committee stage, as had happened before in 1942, would almost certainly confound all prospects of agreement on Malaya's post-war future.

Shortly after the decision to set up the ministerial Committee two draft documents were circulated for the consideration of the Committee members: a secret memorandum by the Colonial Secretary on the "Future constitutional policy for British colonial territories in South East Asia",<sup>3</sup> setting out the background for the intended changes, and an accompanying draft directive on policy in Malaya<sup>4</sup> outlining the specific proposals which required official sanction. The Colonial Office's concern was reflected in the careful drafting of both these documents. No effort was spared to amplify the proposals in especially liberal terms. Arguments for the constitutional changes, consequently, stressed not only the interests of "efficiency" and "security" but also drew attention to the desirability of "self-government" as a key objective behind the conception of the new policy for Malaya. The deprivation of the Sultans of their powers was similarly rationalised along ideologically opportune grounds. This was necessary, asserted the

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2. Minutes of meeting (recorded by Gent), 11 Sep. 1942, CO 825/35 no. 55104.

3. CAB 98/41 CMB (44) 3.

4. CAB 98/41 CMB (44) 4.

draft directive, to curb their "autocratic rule" and to permit HMG to open the way "for a growing participation in the Government by the people of all the communities in Malaya."<sup>5</sup> By affirming noble principles, the Colonial Office hoped to pre-empt and deflect criticisms of its efforts to implement direct rule. Both papers stressed that HMG had no intention either to deprive the Rulers of their personal position as the natural leaders of the Malays or to diminish their prestige. Indeed, the association of their territories in the larger Union would in fact afford them much greater opportunities to be involved in a wider sphere of affairs and "thereby enhance their sphere of influence and prestige in Malaya."<sup>6</sup> And although the non-Malay communities would be given "adequate prospects of participation" in the administration of the country, Britain's "past obligations" to the Malays would be kept and the "political, economic and social interests of the Malay race" would continue to be recognised.<sup>7</sup> To calm fears about the separation of Singapore from the Mainland, the prospects of future fusion were left open. As Stanley explained, HMG "has no desire to preclude or prejudice in any way the fusion of the two Administrations in a wider Union at any time should they both agree that such a course were desirable."<sup>8</sup> To further assure members of the Committee, Stanley entreated them to approach the proposals only as a framework for planning: the application of the policy, after all, "can only be worked out on the spot after reoccupation in the light of prevailing conditions."<sup>9</sup>

Stanley probably believed that if the proposals were thus presented to the Committee, there was a reasonably good chance that they would be acceptable even to Attlee - provided the Committee's discussions could be confined to the recommendations submitted by the Colonial Office. Thus, informed by Paskin in mid-January that the Foreign Office had submitted some unhelpful comments by its Research Department which had warned of the danger of accentuating the "Malay-Chinese clash" and dividing Malaya in the future "between two stools",<sup>10</sup>

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5. Ibid.

6. Ibid.

7. CAB 98/41 CMB (44) 3,

8. Ibid.

9. Ibid.

10. Clarke to Paskin, 12 Jan. 1944, FO 371/35927 no. 1953.

Stanley tersely remarked that he saw "no point at all" in circulating the alarming letter to members of the Cabinet Committee.<sup>11</sup> To further suggestions that summaries should be prepared for the Committee of the views of various ex-Malayans and associations regarding post-war Malayan reconstruction, most of them at variance with the Colonial Office's main proposals, Stanley's reply was equally stiff: "Certainly no circulation."<sup>12</sup> An inquiry by Amery about the precise machinery for self-government in Malaya on 18 January similarly brought a plea from Stanley that it would "greatly help me if you would be agreeable not to bring this matter up in the Committee."<sup>13</sup>

On 22 March, the Cabinet Committee finally met to discuss the Malayan proposals. To Stanley's great relief, the meeting "went off satisfactorily."<sup>14</sup> Amery saw no "awkward precedent" in the Malayan directive which might adversely rebound in relation to either Burma or the Indian States and welcomed the opportunity for broadening the basis of participation for the non-Malay communities. If Grigg had any reservations, he nevertheless kept these to himself and fully endorsed the draft directive as "indispensable" for the guidance of the military authorities during the reoccupation period. The Colonial Office's, at times frantic, efforts to confine the deliberations to its own proposals paid off handsomely. Even Attlee proved surprisingly tractable. On the subject of the Sultans, he was prepared to go even further in curbing their powers. Any expression of an intention to renegotiate the Treaties, Attlee feared, might "commit us to reinstate them whatever we or the people might wish." As it stood, the draft directive offered no alternative courses to the reinstatement of these "autocratic" Rulers. It was Stanley who urged caution. As he asserted, "actions which seemed democratic and progressive in the West might be very differently interpreted in the East." Moreover, there was, as yet, no evidence from Malaya which suggested that the sentiments of the Malays towards the institution of the Sultanate had changed. The fact that certain Rulers might be found to be quislings was, however,

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11. Minute by Stanley, 17 Jan. 1944, CO 825/42 no. 55104/1.

12. Minute by Stanley, 19 Jan. 1944, Ibid.

13. Stanley to Amery, 24 Jan. 1944, Ibid.

14. Minute by Stanley, 22 Mar. 1944, Ibid.



"not an argument against the institution". Given the Attorney-General's explanation that the pre-war Treaties with the Rulers were still valid, and that the only alternative to renegotiation was "annexation", Attlee happily accepted a compromise solution which endorsed Britain's commitment to reinstate the Rulers but also kept open her options with regard to the future of the Sultanate.<sup>15</sup> The amended directive read as follows:

The future position and status of the Malay Rulers in particular cannot finally be judged before liberation when it will be possible to assess not only their individual records but also and especially the attitude of the people of Malaya to the advantages or otherwise of maintaining the Sultanates as institutions in the several states. For the present we have no reason for any other assumption than that the Sultanates as an institution will continue to enjoy the loyalty and traditional respect of the Malays.<sup>16</sup>

As for the actual conclusion of treaties with the Rulers the revised directive also maintained that this task would be assigned to the General-Officer-Commanding (GOC) acting on behalf of HMG. This was further amended to read:

The actual signatory of such Treaties on behalf of His Majesty would appropriately be the G.O.C. but the negotiations would be carried on under instructions from the Secretary of State for the Colonies by Civil Affairs Officers or special representatives of His Majesty's Government, subject always to the proviso that the actual time for opening negotiations with the Rulers must be governed by Military exigencies and left to the discretion of the Military Commander.<sup>17</sup>

The War Cabinet eventually considered the proposals submitted by Attlee on behalf of the Cabinet Committee on 31 May 1944. Given the concurrence of the latter, the endorsement of the Cabinet was more or less a formality. The draft directive for Malaya was approved without further amendments.<sup>18</sup>

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15. CAB 98/41 CMB (44) 1.

16. CAB 98/41 CMB (44) 8. See also Stockwell, pp. 29-30.

17. CAB 98/41 CMB (44) 9.

18. CAB 65/42 WM (44) 70.

## II

Following the War Cabinet's approval of the directive on Malayan policy, detailed planning for the new constitution began in earnest. With regard to the Malay States and the Settlements of Penang and Malacca, the Cabinet had authorised that:

a constitution should be devised which would provide for a single united authority ... subject to the jurisdiction of His Majesty under statutory powers. At the head of the Union Government would be a Governor with an Executive and a Legislative Council.<sup>19</sup>

Furthermore, subject to this new Central Authority, the several States and Settlements would be also empowered to:

deal with such local affairs as may be devolved upon them by the central authority. These local authorities would be so constituted as to be representative of the principal communities and interests in the State or Settlement concerned.<sup>20</sup>

The task of translating these broad guidelines into more defined policy was entrusted to two senior MPU officials, H.C. Willan and A.T. Newbould, both old Malayan hands.

Willan's memorandum on "Future Constitution for Malay Peninsula" was despatched to the Colonial Office on 15 November 1944.<sup>21</sup> To his legal mind, the logic of a "single united authority" made sound "common sense". As Willan explained: "With all these Governments enacting their own legislation it has been difficult in the past to maintain uniformity in laws, an essentiality for a country which, in fact, is one economic unit. This has been more forcibly impressed on my mind in planning the legal side of the Military Administration for the re-occupation of Malaya." The conception of a Malayan Union, therefore, was "the only solution" to Britain's dilemma. But in view of previous British official pronouncements recognising the independence of the

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19. CAB 98/41 CMB (44) 9.

20. CAB 98/41 CMB (44) 3.

21. Memo. by Willan, 15 Nov. 1944, CO 825/42 no. 55104/1C.

Rulers, and assurances that Britain had no intention of impairing that independence, current efforts to deprive the Rulers of their sovereignty would have to be justified and rationalised on "a much higher plane", otherwise it would nourish the impression that HMG's Malayan policy had been "hastily devised" to meet wartime exigencies and would not be able to "survive scrutiny and criticism in the calm atmosphere of the post-war peace." It was not enough, for instance, to rationalise the scheme principally on defence grounds - important as these were - not only because all previous defence proposals had "always been agreed to by all the Malay Rulers" (despite nagging delays) but also because HMG could not cogently argue that had there been only one Government in Malaya in 1942, the defence of the country "would have been any better."

It was also apparent to Willan that the proposed Central Authority must be "supreme", if Union was to be a reality, with no restriction on its legislative powers apart from the usual power of disallowance from the Crown, so that laws enacted by it required only the assent of the Governor and could not be disputed by the Rulers who, in the new constitution, would be shorn of all their powers apart from their personal prestige and dignity. To sweeten the pill, Willan proposed that the Sultans be granted "their fit and proper position with certain defined functions" in the new constitution otherwise they would invariably prove recalcitrant when asked to sign on the dotted line.

One possibility was to ensure that the Central Legislature was bi-cameral in form, with the nine Sultans and the Governor comprising the Second Chamber. Willan, however, doubted its practicability. Apart from the problems of obtaining suitable representation for the Settlements of Penang and Malacca and devising some method of settling differences between the two Chambers, a Lower House, composed of the Malay Rulers, representing only their Malay subjects, would also not be truly representative of the peoples of the Malay Peninsula. Nor would the Sultans be qualified to perform effectively the real functions of a Second Chamber.

Willan favoured the constitution of a "Council of Sultans" which would be a consultative and deliberative, but not executive, body that would advise the Governor (who would preside over the Council) on all matters raised by the Rulers with the approval of the Governor or by the latter himself as well as on all other matters affecting the

Mohammedan religion and custom prior to their consideration in the Union Legislature. If such a Council was established "with due ceremony" Willan surmised that it would "go a long way" towards appeasing the Sultans, particularly those in the UMS. To emphasise the exclusive status of this Council Willan proposed that, should the Governor be absent from any of its meetings, the senior Sultan - and not the Chief Secretary - should preside over its deliberations.

It was also important to ensure that the prestige and dignity of the Sultans could not be opened to discussion in local politics. Their place in the new constitution should not therefore be allotted to them by the "central authority" - which might allow the unofficial Malay, Chinese and Indian members of the Legislative Council to "air their views in public as to what position the Sultans should occupy" - but by His Majesty the King-in-Council.

Since the Government would be run on the same lines as the administration of a Colony, Willan suggested that the official members of the Executive Council should include, apart from the Governor, the Chief Secretary, Attorney-General, Financial Secretary with two new additions, the Secretary of Chinese Affairs and the Controller of Labour, who would be concerned with Chinese and Indian affairs respectively. There would be an equal number of unofficials appointed on a racial basis comprising two European members, one Malay, one Chinese and one Indian member, drawn from the Legislative Council.

Turning to the Legislative Council, Willan favoured increasing the pre-war Federal Council representation of official and unofficial members from fifteen and twelve respectively to the new figure of twenty for both, with the Governor holding the casting vote, as in the Executive Council. Included in the official representation would be all the official members of the Executive Council, the General Manager of Railways, Director of Agriculture, Director of Education, Comptroller of Customs and eleven renamed "Resident Commissioners" who replaced the former British Residents and Advisers (in the FMS and UMS) and the Resident Councillors (in Penang and Malacca). A nucleus of eleven unofficials would be nominated, irrespective of race, each representing either a State or a Settlement. Of the remaining nine unofficial members, Willan proposed that five should come from the Chambers of Commerce (including the interests of the tin and rubber industries), one should be an European lawyer and three others from persons representing the

interests of the Union as a whole.

On the local State level, Willan suggested that Settlement and State Councils should be constituted with powers devolved from the Legislative Council to legislate on all matters of a purely local nature. Membership of officials and unofficials would vary from six to eight in each Council, and in the case of the unofficials, nominated with some regard to the "racial population" of each State and Settlement. With the Rulers excluded, the Resident Commissioners would preside over the meetings and hold at the same time the casting vote.

Linkages between the Legislative Council and each State and Settlement Council would be through the nomination of an unofficial member in each of the local Councils as also a member in the central Union Legislature. Since unofficial members of the Executive Council were also prospective members of the Legislative Council, a further link would be provided up to the apex of the Union Government.

Willan urged that, as far as possible, the new constitution should be "cut-and-dried" before the reoccupation of Malaya. It would be "fatal" to adhere rigidly to the doctrine that Britain could push through the new Treaties with the Rulers, secure the necessary jurisdiction, and then pause to consider the next step "in the light of the prevailing conditions" in Malaya at that time, as recommended by the Cabinet. Unless the Rulers could be told "exactly what our plans are regarding the new constitution" and the part they would play in it, Willan was dubious about their willingness to sign. At the same time it was essential that the negotiations were speedily concluded: "The less delay in negotiating the new treaties the better chance we have of the Sultans agreeing to them."<sup>22</sup>

A.T. Newbould, like Willan, had also been actively setting out his views on the future constitution for Malaya in two memoranda which he submitted to the Colonial Office on 17 November<sup>23</sup> and 30 November<sup>24</sup> 1944. Like Willan, Newbould warmly endorsed the conception of a Malayan "Union" as "far more in keeping with the general proposals laid down by the Cabinet." The alternative of a Federation, he feared, would only "keep alive the sense of independence of the States" and raise

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22. Ibid.

23. Memo. by Newbould, Oct. 1944, Ibid. Newbould's memo. was submitted to Gent on 17 November 1944.

24. Memo. by Newbould, 30 Nov. 1944, Ibid. This memo. registered Newbould's comments on Willan's earlier memo. of 15 November.

difficult questions about the division of powers between the central and local authorities. But while he agreed that it was "necessary and right" to ensure that jurisdiction was ceded to HMG by the Sultans he had some reservations about the procedure of bringing the new constitution into operation by Orders-in-Council which would unwittingly evoke the impression that it had been "superimposed by a superior authority without the opportunity of public discussion except after the event."<sup>25</sup> While such an act would have gone unquestioned seventy years ago, Newboulton feared that "today, it will be regarded as a retrograde step to assume this power at a time when every movement is towards self-government, and in the face of such positive assurances as to our relationships with the Sultans. It is expedient, but is there no alternative? It relegates the Sultans to very inferior positions compared with those which we had created for them before ..."<sup>26</sup>. Would it not be less objectionable if details of the new constitution were first decided jointly by both the Rulers and HMG "with a suitable clause allowing for alterations when these are necessary?": "This would be far more in keeping with our former dealings with [the] Rulers, less of a complete surrender of their powers; and so, more acceptable to them and their peoples, and less open to criticism by a critical outside public."<sup>27</sup>

So long as Britain was committed to keeping the Sultanates as an institution in the various States, Newboulton also warned against allowing the Sultans to recede into "complete obscurity". They had a duty to the Malay people "which it would be wrong to ignore", he argued, and the Malay peasant, on his part, had an intrinsic loyalty to the office of Sultan and would regard "with doubt and suspicion" any diminution of the Ruler's authority. Assuming that the Rulers could be persuaded to surrender their authority to HMG, then they would in fact be the "best person[s]" to get that into the minds of the Malays." The need to win the Rulers' co-operation was therefore "all the more necessary" and should not be underestimated. Newboulton believed this could be best achieved by giving the Rulers a "definite part to play" in the new constitution.

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25. Memo. by Newboulton, Oct. 1944, Ibid.

26. Memo. by Newboulton, 30 Nov. 1944, Ibid.

27. Memo. by Newboulton, Oct. 1944, Ibid.

What should this role be? Like Willan, Newboulton agreed that the Sultans could not be given any direct position in the proposed Central Legislature, not only because of power considerations, but also because they would then be placed in the "invidious position of having to argue for or against any proposal in open Council" - a prospect which would be unbecoming of their "dignity" as Sultans. Malay members, furthermore, would hesitate to express their views in the presence of a Ruler. Like Willan, Newboulton proposed the constitution of a "Council of Rulers" but, unlike Willan's "Council of Sultans" which could only advise the Governor on Mohammedan religion and Malay custom, Newboulton's scheme would allow the Rulers "final authority" on all such matters. Such questions, he argued, "have always been the concern of the Rulers and this must continue."<sup>28</sup> He would even "go further" and emphasise that no Bill on such subjects should be introduced into the Union Legislature until it had been considered and accepted by the Sultans.<sup>29</sup> Additionally, the Council of Rulers could furthermore be given the task of validating Bills passed by the Central Legislature, a formality which would openly vest the Rulers with "an important duty, and outwardly adding to their dignity." Such a role, however, could be objected to on three grounds: (1) it would cause delays in the passing of legislation; (2) it would only be a mere formality; and (3) it could open the way for the Sultans to "tamper" with enactments and raise doubts about the finality of their cession of legislative Jurisdiction to the Union.<sup>30</sup>

For the Executive Council, Newboulton favoured a strong unofficial membership with official members restricted to only three or four. Apart from the Chief Secretary, Attorney-General and Financial Secretary, Newboulton preferred to leave the other nominations to the discretion of the Governor, "limiting him only by the total number of officials and unofficials". What Newboulton was emphatic about was that these representations should not, as far as possible, "wear any racial label. They are members of the Executive Council first, and members of their race second." Nor should the membership be restricted only to members

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28. Ibid.

29. Memo. by Newboulton, 30 Nov. 1944, Ibid.

30. Memo. by Newboulton, Oct. 1944, Ibid.

of the Legislative Council, "as this might debar an otherwise valuable unofficial."<sup>31</sup>

On the composition of the Legislative Council, Newbould also disagreed with Willan and preferred a strong unofficial majority of thirty-five members, drawn on a proportional population basis from the various States and Settlements and from representatives of the various interests in Malaya. Well populated States and Settlement like Perak, Selangor, Johore and Penang and Province Wellesley, for instance, could be given three representatives each; Perlis, the least, would have one and the remaining States and Settlement (Malacca) could be represented by two members each, making a total of twenty five. Rubber, tin and trade interests could each have two members, giving a total of six. Another four members could then be nominated by the Governor representing all other interests. The official representation would include the three senior officials in the Executive Council and the Heads of the large departments like Health, Education and Agriculture. An enlarged Legislative Council, Newbould argued, would afford "a more representative body in which all shades of opinion have a voice, and a greater feeling of collective responsibility."<sup>32</sup> As he elaborated later: "Nothing would help us more in winning the people's co-operation than the feeling that they themselves were in the saddle and in control."<sup>33</sup> Control over both the Executive and Legislative Councils, however, would be maintained by the possession of reserved powers by the Governor presiding over their meetings.

Newbould also favoured the constitution of the State and Settlement Councils for purposes of local administration with power devolved from the Central Legislature. Membership of these Councils, however, should again avoid representation by race, although it would be important to ensure that amongst unofficial members there were individuals of the "predominating races." Going further than Willan, Newbould recommended also the constitution of District Councils, to which executive functions (such as financial responsibility) could be progressively delegated by the State organs, and "a real start will have been made towards local self Government." Without such a scheme, Newbould feared that "we shall always be open to criticism in claiming that our objective is the furtherance of self-government."<sup>34</sup>

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31. Memo. by Newbould, 30 Nov. 1944, Ibid.

32. Memo. by Newbould, Oct. 1944, Ibid.

33. Memo. by Newbould, 30 Nov. 1944, Ibid.

34. Memo. by Newbould, Oct. 1944, Ibid.



The proposals by Willan and Newboulton were well received in the Colonial Office. Bourdillon, for instance, was pleased with the "thorough-going 'unionisation'" advocated by Willan and found little in his recommendations which invited serious criticism. Willan's plea that the plans be "cut-and-dried" was readily supported by Bourdillon: delay would only result in final frustration with the Colonial Office "being accused on all sides of despotism, duplicity and bungling."<sup>35</sup> There was also a "great deal" in Newboulton's argument that the Rulers remained "paramount" in matters of Mohammedan religion and Malay custom: "The Sultans might reasonably argue that these matters are of exclusive interest to the Malays and I can imagine them being very sticky in negotiations on the point. It would be a pity if negotiations were held up on a matter of such comparative unimportance." On Newboulton's recommendation that the new constitution be established not by Orders-in-Council but by the actual treaties with the Sultans, Bourdillon was less forthcoming: "[I]s it not open to the fatal objection that any further constitutional changes would have to be agreed with the Sultans? This is one of the main things we want to avoid."<sup>36</sup>

Details of the new constitution for Malaya were finalised between the MPU and the Colonial Office during their discussion on 5 December and 11 December 1944. Willan's suggestion for a "Council of Sultans" was accepted although Newboulton was instructed to devise a more suitable title that would more accurately reflect the changed status of the "Sultans" in the new constitution.<sup>37</sup> The Executive Council, as proposed, would comprise five official members - the Chief Secretary, Attorney-General, Financial Secretary and two others to be prescribed by the Governor - and an equal number of unofficials appointed "on the basis suggested by Willan", although it would have to be made clear that this should not be constituted as representation on a racial basis. There would also be no necessity for members in the Executive Council to be confined only to those in the Legislative Council although "this was the ideal to be aimed at eventually." The Legislative Council would comprise some twenty one unofficial members and a number of officials not exceeding twenty one, thus leaving open the option of an unofficial

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35. Minute by Bourdillon, 28 Nov. 1944, Ibid.

36. Minute by Bourdillon, 30 Nov. 1944, Ibid.

37. This was later renamed the "Central Advisory Council". See Malayan Union and Singapore: Statement of Policy on Future Constitution, Cmd. 6724, (Jan. 1946).

majority, of whom five would be drawn from the official members of the Executive Council. The unofficial representation in the Legislative Council were arrived at with figures supplied by Willan showing the Malay and Chinese population distribution in seven designated areas (see Table 4:1 below).

TABLE 4:1     POPULATION DISTRIBUTION IN SEVEN AREAS

States & Settlements	Malays	Chinese	Total of Malays & Chinese	Total of all races
Penang & Province Wellesley	119,913	230,679	350,592	419,047
Malacca & Negri Sembilan	217,912	217,931	435,843	532,096
Selangor & Pahang	281,236	413,632	694,868	923,352
Johore	302,104	308,901	611,005	675,297
Kedah & Perlis	387,735	116,672	504,407	583,308
Kelantan & Trengganu	555,836	40,319	596,155	613,724
Perak (estimated)	335,385	450,197	785,582	992,691

Source: CO 825/42 no. 55104/1C

These seven areas would be represented by fourteen nominated unofficials who on the figures produced would be Malays and Chinese. The balance of seven would be selected to represent other important interests throughout the Union (thus giving adequate representation to European, Indian and Eurasian interests). No decision, however, was reached on the number of official and unofficial members on the various State and Settlement Councils although it was agreed that they would be appointed by the Governor on the recommendation of the Resident Commissioner. One unresolved matter remained: with the exclusion of the Sultan from the State Council, the role of the Sultan within his own State required further

elucidation. What was eventually agreed was that an "Advisory Council" would be established in each State, presided by the Ruler himself who would also appoint its members with the approval of the Governor. This Advisory Council could then advise the Sultan on all matters affecting the Mohammedan religion and Malay custom as well as on any other matter referred to it by the Resident Commissioner, and approved by the Governor.<sup>38</sup>

In short, the new constitution for the Malayan Union envisaged the creation altogether of twenty three Councils with varying executive, legislative and advisory powers, as against the pre-war number of only twelve. The irony of this development did not escape one perceptive MPU official who wryly commented: "It is not my function to criticise but I should, perhaps, point out that, counting the Council of Sultans and the State Advisory Councils, the result of the new proposals will be, in the name of simplification, nearly to double the number of Governmental bodies in the territories concerned ... It is true that real power will reside in two of these Councils only, so that, in fact, a simplification will be effected. But the facade seems very elaborate."<sup>39</sup>

### III

One unfortunate consequence of the Colonial Office's preoccupation with the more intricate Malayan Union policy throughout 1943 and 1944 was the temporary withdrawal of interest in Singapore's constitutional position under the new scheme. It was only in January 1945 that P.A.B. McKerron was approached by the Colonial Office to postulate post-war plans for Singapore.

Pre-war Singapore was administered by a Governor, with an Executive and Legislative Council and assisted by semi-governmental organisations like the Municipal Commission, the Rural Board, the Improvement Trust and the Harbour Board, with the former two organisations carrying on the functions of local Government in the town and rural areas respectively. Of these former bodies, the Municipal Commission was constitutionally the most developed with an entirely unofficial body of twenty five members, and exercising its role of local Government within Municipal limits independently of the Central Government and without a Government subsidy. The Municipal Commission, therefore, afforded its members

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38. Note of discussion, 11 Dec. 1944, CO 825/42 no. 55104/1C.

39. Memo. by K.K. O'Connor, 20 Aug. 1945, CO 273/675 no. 50823/6/2.

"valuable training for wider political responsibilities."<sup>40</sup>

In approving the planning framework for Singapore, the War Cabinet recognised this development and contemplated the possibility of allowing Singapore to be governed by a body akin to the former Municipal Commission under a Governor or Lieutenant Governor; given the Island's anticipated dismemberment from the former Straits Settlements, its small size, and for reasons of administrative economy, this was felt to be a more desirable course than to administer Singapore under the old system designed for a more extensive Straits Settlements. As the Cabinet paper put it:

The basis for a separate organisation for the Island of Singapore already existed in the Municipality of Singapore, but the appointment of a separate Governor or Lieutenant Governor for the Settlement will be desirable.<sup>41</sup>

Basing his planning on the Cabinet paper's recommendation, McKerron conferred with W. Bartley, a former President of the Municipal Commissioners who had been recruited into the MPU, and together submitted a joint memorandum<sup>42</sup> in March 1945 outlining three possible courses along which Singapore's constitutional development could proceed. There was, firstly, the possibility of enlarging, as recommended, the scope and powers of the Municipality to absorb all the functions of the Central Government; the authors however were not convinced that an organisation devised for purely local Government could assume the much more intricate functions of a Central Government. The converse, whereby the Central Government would absorb the functions of the Municipality and exercise them through a local Government or Municipal Department was also untenable as it was a "retrograde step". The decision was therefore taken to recommend the retention, with minor modifications, of the former arrangement of both a Central Government and a Municipality. Two reasons were advanced for the decision:

(a) the breaking up of the former Colony of the Straits Settlements and the establishment of a separate Crown Colony Government for

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40. Memo. by McKerron, O'Connor, Bartley, Spencer-Wilkinson, 1 May 1945, CO 273/675 no. 50823/17.

41. CAB 98/41 CMB (33) 3.

42. Memo. by McKerron and Bartley, Mar. 1945, CO 273/675 no. 50823/17.

Singapore Island by itself will be a severe shock to the inhabitants and we feel that it would mitigate the shock to some extent if the former framework of the Island's own government institutions, with which the people themselves are familiar, can be retained;

(b) we feel strongly also that the best way to educate the people for the greatest possible measure of self-government in their own local affairs is to provide training grounds for that education, and we can conceive of no better school than that provided by the existing Municipal and Rural Board institutions developed and democratised to the fullest extent possible.<sup>43</sup>

Having decided to retain the existing constitutional structures, the next problem was the practical issue of reconciling the necessity for democratisation with the need to safeguard Britain's imperial interests in the Island:

The crux of the problem of the future government of Singapore is how to suggest that self-governing institutions should be further developed while at the same time safeguarding the peculiar position of Singapore as a vital point in the defence and communications of the Empire.

A measure of democratisation, it was felt, was a necessary prelude to assuage popular feelings over the trauma of the anticipated constitutional change. Both McKerron and Bartley believed that dismemberment of the Straits Settlements and the severance of Singapore from the Mainland would also "provoke bitter opposition from the people of the Colony in addition to the opposition to the new proposals which may in any case be expected from the Malays in the Malay States." To temperate sensitivities over the matter, the authors recommended that the pre-war official majority in the Legislative Council should be revamped to ensure an unofficial majority. Imperial interests, on the other hand, could be protected by (a) reserving to the Governor-General or the Governor powers to enact legislation on reserved subjects, or (b) providing the Governor-General with some form of Central Legislature that would enable him to pass legislation on reserved subjects for the whole of Malaya. Of the two, the latter was favoured as the former

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43. Ibid.

44. Memo. by McKerron and Bartley, Mar. 1945, Ibid.

"precludes local discussion" and was consequently "more likely to arouse resentment."<sup>44</sup>

Given that the recommendations had gone somewhat beyond the terms laid down by the Cabinet, the Colonial Office warily hedged and pressed the MPU to reconsider the matter again along the lines previously approved by the Cabinet, that is, to examine afresh the possibility of an enlarged Municipality administering the Island and, initially, the feasibility of a fusion of the Rural Board with the Municipal Commission. An unofficial majority, it was feared, might unwittingly prejudice public reaction to the more restrictive Malayan Union policy for the Mainland.<sup>45</sup>

Early in May, resisting Colonial Office pressure, McKerron, in conjunction with Bartley and two other staff members of the MPU, K.K. O'Connor and Spenser-Wilkinson, submitted a new joint memorandum<sup>46</sup> restating the case for the retention of the former structures:

... the Municipal Commission was fitted for the management of Municipal affairs and in that capacity it acted successfully. We do not consider it a suitable body to exercise legislative functions and we do not think that in that role it would command public confidence. Moreover, we are convinced that to deprive Singapore of a separate Legislative Council and to make it feel that it was being reduced to the level of a Municipality or Borough would be considered to be a retrograde step and would arouse active hostility among the public.

The memorandum added:

It would be wrong for us to conceal our opinion that the new policy for Malaya will be unpopular. The opinion which we all independently held is that the proposal to dismember the Straits Settlements is likely to cause bitter resentment in Singapore, Penang and Malacca; and, further, that if the new proposals for the Malay States are not accepted voluntarily by the Rulers and pressure is applied in order to obtain agreement, that fact will not remain hidden. In such an event, apart from opposition by the Peninsula Malays, great uneasiness will be caused among those inhabitants of Singapore who find it impossible to reconcile present policy with British good faith and past pledges..... We think that the

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45. Minute by Paskin, 30 Mar. 1945, Ibid.

46. Memo. by McKerron, O'Connor, Bartley, Spencer-Wilkinson, 1 May 1945, Ibid.

proposals are likely to be less of a shock to public opinion if, at least as regards Singapore, the former constitutional structure is restored as nearly as may be.

On the positive side, the memorandum noted that the existing constitutional structures had "worked well in the past": "The people were prosperous and contented. There were no serious political or racial difficulties and the Colony could justly claim to be one of the most contented and successful units of the Colonial Empire." Though the Island was small, "its population, wealth and position in the world justify a constitution of the usual Crown Colony pattern."

The previous recommendation for an unofficial majority in the proposed Legislative Council was also upheld. Brushing aside fears of undue comparisons between Singapore and the Malayan Union, the authors argued that "the fear of popular dislike of a particular policy should not prevent the grant of a democratic form of constitution which is otherwise justified. If there be popular disapproval of the policy, it will make itself felt whether or not there is an unofficial majority in the Legislative Council." The memorandum proposed that the new Legislative Council would comprise the Governor as President, four ex-officio<sup>47</sup> and five official members,<sup>48</sup> nominated by the Governor, nine elected non-officials<sup>49</sup> and two nominated members, thus reversing the pre-war official majority of one (secured by the Governor's vote) and increasing the number of elected as opposed to nominated unofficial members from two to nine, a concession to public criticism before the war of the unrepresentative nature of the system of appointments by the Governor. Constitutional safeguards would take the form of the Governor retaining reserve powers on defence, foreign affairs and matters of pan-Malayan importance.

The memorandum, however, acceded to the Colonial Office's

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- 47. These would be the Colonial Secretary, the Senior Officer commanding the troops. the Attorney-General and the Financial Secretary.
  - 48. Presumably they would include the Secretary of Chinese Affairs, the Directors of Public Works, Medical and Health Services and Education and one other.
  - 49. The Municipal Commissioners, Singapore Chamber of Commerce, Chinese Chamber of Commerce, Straits Chinese British Association, the Eurasian Association, the Malay community and Indian community will each elect one unofficial while the Straits Settlements (Singapore) Association will elect two.

suggestion, on the grounds of simplicity and efficiency, of a fusion of the Rural Board with the Municipal Commission. The one substantial objection, which the memorandum examined and rejected, was that the separate existence of the Rural Board safeguarded the interests and development of rural areas and that merger would place the rural areas at the disposition of the Municipal Commissioners who would be only interested in urban problems. As the Rural Board, unlike the Municipal Commission, was a largely official organisation depending on Government subsidy for nearly half its revenue, the tendency for neglect by the Commissioners would be accentuated by fusion. To circumvent this problem, the memorandum proposed that adequate representation from the rural areas be included in the Municipal Commission. Government financial support for specified development projects could also be extended to the rural areas.

The other main recommendation concerned the question of Singapore's economic future as a trading centre. The constitutional plans for Singapore had been framed on the assumption that the detached Colony would still be able to recover its pre-war prosperity, based almost entirely on trade with the Malay Archipelago and the Malay States. That it would be "no easy matter" for Singapore to regain its previous entrepot position within the Malay Archipelago was nevertheless tacitly recognised by the MPU planners. Both in the short and long terms, Singapore's entrepot trade was likely to be hampered by the initial post-war shortages of Western manufactures and tropical produce, the war-time disruption of trade channels, competition from rival ports and the imposition of tariffs in the Netherlands East Indies. Singapore's Peninsula trade, on the other hand, was more encouraging, with good prospects for further growth. Consequently, the planners were rightly concerned that the growing trade between Singapore and the Mainland be insured against the plausibility of tariff barriers being erected by the future Malayan Union Government that discriminated against the Island. Such a contingency would not only irreparably harm Singapore's economic survival, but also "ruin" the Colony. The memorandum, therefore, recommended that the imperative of tariff legislation in the Malayan Union should be made a reserved subject dependent upon the prior recommendation and sanction of the Governor-General and the Colonial Secretary respectively.



The proposals were discussed with the Colonial Office on 11 May 1945 and agreed almost without amendment. Generally pleased with the "sound and balanced document", Bourdillon urged its prompt acceptance, rationalising retrospectively that although the new memorandum was somewhat at variance with the Cabinet's planning instructions, the latter interpretation had arisen from a "too restrictive" reading of the Cabinet's planning directive. As the memorandum had already envisaged a much extended role to the Municipality, it was well "within the spirit of the original proposals."<sup>50</sup> But before a decision could be made on the Singapore constitution the wartime Cabinet was dissolved and on 26 July the Labour Party swept into power during the general election. Clement Attlee was named Prime Minister and George Hall became the new Secretary of State for the Colonies. When Japan surrendered a few weeks later on 15 August the plans for Singapore were temporarily shelved as the Colonial Office frantically directed its efforts at getting final Cabinet approval for its main Malayan Union policy.<sup>51</sup>

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50. Minute by Bourdillon, 27 Jul. 1945, CO 273/675 no. 50823/17.

51. Minute by Bourdillon, 13 Aug. 1945, CO 825/42 no. 55104.

## CHAPTER FIVE

## "NEGOTIATING" THE TREATIES

Sir Harold had asked that Rulers should not be recalcitrant.

HH Sultan Alam Shah, 18 February 1946.

To suggest ... that the Sultans were coerced in secret is really just nonsense.

A. Creech-Jones, 8 March 1946.

Japan's unexpected surrender on 15 August 1945 not only opened the way for the reimposition of British colonial rule but also precipitated the Colonial Office's long simmering plans for the introduction of its new constitutional policy. Two days after the first British troops landed in Penang on 3 September, the main reoccupation forces arrived in Singapore. Immediately, a military administration was proclaimed and Lord Louis Mountbatten, as Supreme Allied Commander, assumed for himself "full judicial, legislative, executive and administrative powers and responsibilities"<sup>1</sup> throughout Malaya. From 5 September 1945 to 1 April 1946, Singapore and the Peninsula, anticipating their future constitutional division, were co-jointly, but separately, administered under the British Military Administration (BMA). Major-General Hone, formerly head of the MPU, assumed the role of Chief Civil Affairs Officer (CCAO), overseeing the entire administration of the civil population, although the more specific territorial administrations were delegated to Brigadier P.A.B. McKerron, as Deputy Chief Civil Affairs Officer (DCCA0) Singapore, and Brigadier H.C. Willan, as his counterpart in the Mainland. The sudden ending of the war, by hastening the British return, had also brought to the fore the urgency of completing constitutional preparations

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1. H.R. Hone, Report on the British Military Administration of Malaya, September 1945 to March 1946, (Kuala Lumpur, 1946), p. 201.

before the transition from military to civil administration. In the Mainland, new Treaties with the Malay Rulers which would legitimise the new policy had still to be negotiated: if the Sultans refused to deal, the latest constitutional arrangements could become virtually still-born.

# I

The person selected by the Colonial Office for the task of securing the new Treaties was Sir Harold MacMichael. A former member of the Sudan Political Service, MacMichael rose to become the Governor of Tanganyika from 1933 to 1937 before becoming High Commissioner of Palestine and Trans-Jordan from 1938 to 1944. No stranger, therefore, to political upheavals and awkward situations requiring resolute actions,<sup>2</sup> MacMichael was also thoroughly conversant with the problems of combined civil-military operations, having worked, as Stanley noted, "in close and harmonious co-operation" with the military authorities in Palestine.<sup>3</sup> He was, moreover, highly regarded in the Colonial Office. As Gent remarked, "I believe no Governor or ex-Governor is held in higher esteem than Sir H. MacMichael in the Colonial Office."<sup>4</sup> Upon returning to London after his retirement in the autumn of 1944, MacMichael was accordingly approached by Gater to undertake the mission to Malaya which he readily accepted.<sup>5</sup> Out of necessity, MacMichael's appointment, however, was kept strictly confidential. To those not privy to his real mission, he was engaged only on "special work" for the Colonial Office connected with the "administrative planning for the liberation of British territories in the Far East."<sup>6</sup>

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2. While High Commissioner of Palestine, MacMichael was a staunch advocate of the White Paper (May 1939) policy asserting that it was "impracticable" to set up a separate Jewish State and proposing to restrict Jewish immigration after 5 years. This won him the ire of many Jewish nationalists. See Bernard Wasserstein, Britain and the Jews of Europe 1939-1945, (Oxford, 1979), p. 35.
  3. Stanley to Mountbatten, 13 Dec. 1944, WO 203/5612 no. 1454.
  4. Minute by Gent, 12 Feb. 1945, CO 273/675 no. 50823/7/1.
  5. Gater to MacMichael, 2 Dec. 1944, MacMichael Papers, cited in A.J. Stockwell, British Policy and Malay Politics During the Malayan Union Experiment 1942-1948, (Kuala Lumpur, 1979), p. 35. MacMichael was succeeded as High Commissioner by Lord Gort on 1 Nov. 1944.
  6. Stanley to Mountbatten, 13 Dec. 1944, WO 203/5612 no. 1454.

MacMichael, nevertheless, was clear as to the object of his mission. As he confided later to Mountbatten, his task was not so much to "negotiate" the new Treaties as to "secure the agreement of the Rulers to the new constitutional position envisaged."<sup>7</sup> He had, however, no illusions that his assignment would be plain sailing. As Gent had warned: "The persuasion of the State Rulers to sign the Agreements we want will involve difficulties, as we must expect, which will have to be resolved on grounds of HMG's policy."<sup>8</sup> Partly to strengthen his hand, MacMichael consequently entreated the Colonial Office early in December 1944 to give him a "fairly resounding title"<sup>9</sup> - "something to denote that he is a high plenipotentiary to His Majesty's Government"<sup>10</sup> - in order to enhance his status and facilitate his task with the Rulers. "From the point of view of negotiating", MacMichael beseeched, "the higher sounding the title the better."<sup>11</sup> The designation finally agreed by the Colonial Office was "Special Representative of His Majesty's Government" which, it was felt, not only accurately expressed the idea that his mission was a "special" and temporary assignment but also, by invoking the prestige of HMG, could be a "most potent weapon in our armoury".<sup>12</sup> Wanting further to enhance his position, MacMichael had also inquired into the possibility, not as a personal honour but for the purpose of his mission, to be made a Privy Councillor so as to obtain the title "Right Honourable" which, he felt, would be calculated to "impress the Malay Rulers who traditionally attach importance to honours and dignities". Additionally, it would further signify Royal confidence in the British envoy in his direct negotiations with the Malay Monarchs.<sup>13</sup> The Colonial Office replied, however, that no precedence could be found for the practice and it was, therefore, "not a line which it would be

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7. See memo. by Keswick on MacMichael's discussions with Mountbatten, 2 Jun. 1945, WO 203/5553 no. 1233.

8. Gent to Duncan, 7 Jun. 1945, CO 273/675 no. 50823/7/1.

9. Gent to Bennett, 15 Dec. 1944, Ibid.

10. Ibid.

11. MacMichael to Gater, 9 Dec. 1944, Ibid.

12. Gent to Duncan, 7 Jun. 1945, Ibid. A number of titles had been canvassed. "Envoy" was thought by the Foreign Office as inappropriate since the Treaties were not international agreements. The recommendation of "High Commissioner", in view of its pre-war usage, was equally undesirable as it could lead to possible "misunderstanding" with the Rulers. "Crown Representative", however, was considered by the India Office as inappropriate since MacMichael's mission was ad hoc in nature and not a gubernatorial function.

practicable to pursue."<sup>14</sup>

Towards the end of May 1945, after completing his preliminary "background" work in London, MacMichael paid a month-long visit to SEAC HQ in Kandy, as well as HQ ALFSEA in Calcutta and Rear HQ SEAC in Delhi for the second phase of his preparations involving more detailed talks and liaison with the military authorities. Still anxious to enhance his position, MacMichael again recurred to the theme of his personal status. This time he requested that his journey to Malaya should be made in one of His Majesty's warships - "the larger, the better". He should then disembark with "ceremonial arrangements" on State territory in the Mainland and not at either Singapore or Penang. His accommodations should be at King's House, fully furnished and equipped for his reception, and, for transport, he should be provided with a "large size" saloon car in civilian colours and not military camouflage. The manner in which he was received and accommodated in Malaya, MacMichael submitted, would have an important effect on the success of his mission with the Sultans.<sup>15</sup>

If MacMichael was still worried about the danger posed by the recalcitrance of the Sultans, his discussions with SEAC officers, and in particular with Major-General Hone, directed his attention to a matter under consideration which had a bearing on counteracting the problem: the question of the "recognition" of the Sultans in the post-occupation period. The issue had been precipitated by the knowledge gleaned from intelligence sources that not all the pre-war Sultans whose appointments had been "recognised" by the British were still officiating:

... some Sultans have died and have been replaced by Japanese nominees who may or may not be persons of repute and worthy of our recognition; while other loyal Sultans may have been deposed by the Japanese and replaced by puppets of pro-Japanese sympathies and/or ill-repute.<sup>16</sup>

In fact, of the pre-war Rulers, only five had survived - the Sultans of Johore, Perak, Pahang and Selangor and the Yam Tuan of Negri Sembilan.

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13. Minute by Gent, 12 Feb. 1945, Ibid.

14. Gent to MacMichael, 17 Feb. 1945, Ibid.

15. See Minute by Gibbons, 21 Aug. 1945, WO 203/5284 no. 1248.

16. Memo. by Mountbatten, 9 Sep. 1945, WO 203/5293 no. 1249.

Of these, the Sultan of Selangor had been deposed by the Japanese<sup>17</sup> and his place taken instead by his eldest brother, Tengku Musa-Eddin, who had been previously debarred by the British from the succession.<sup>18</sup> The Sultan of Trengganu, on the other hand, had died in September 1942, followed by the Raja of Perlis in February 1943, the Sultan of Kedah in May 1943 and the Sultan of Kelantan in June 1944. The former was succeeded by his eldest son, Raja Ali. In Perlis, a Japanese nominee, Tengku Syed Hamzah, the Raja's half-brother, was appointed instead of the heir apparent, Tengku Syed Putera. Kedah was succeeded by the Regent, Tengku Badlishah, while in Kelantan, the Sultan's brother, and heir apparent, Tengku Ibrahim, was accordingly appointed Sultan.<sup>19</sup>

To Hone, such a situation was indeed fortuitous. It would provide HMG with just the excuse to inform the Sultans that, during the period of the military administration, "they will have no part in it" pending the investigation into their status and conduct during the Japanese occupation.<sup>20</sup> Prompted by Hone, and with his assistance, MacMichael consequently drafted a memorandum laying out certain guidelines for dealing with the Rulers on the liberation of Malaya.<sup>21</sup> In its final form,<sup>22</sup> the memorandum strongly urged that no formal "recognition" of any "Sultan" should be conferred "until the position has been carefully examined." It added:

HMG has in mind that certain constitutional changes may be desirable ... These changes may considerably affect the post-war political authority of the Sultans and hence any officer who, by speech or conduct, leads any Sultan to

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17. The reason for this was apparently because of a pro-British pronouncement by the Sultan on 10 Dec. 1941 to rally support for the defence of Malaya. See Willan's report of his interview with the Sultan, 18 Sep. 1945, in WO 203/5642 no. 1451/4.
  18. See Yeo Kim Wah, "The Selangor Succession Dispute, 1933-38", *JSEAS*, 2, 2 (Sep. 1971), 169-184.
  19. See Cheah Boon Kheng, Red Star Over Malaya: Resistance and Conflict during and after the Japanese Occupation, 1941-1946, (Singapore, 1983), pp. 266-267.
  20. Hone to Gibbons, n.d. (possibly May 1945), WO 203/4471A no. 575/2.
  21. Hone to Gibbons, 13 Jun. 1945, WO 203/5612 no. 1454.
  22. See "Initial relations with Malay Sultans on the liberation of Malaya", 9 Sep. 1945, in WO 203/5293 no. 1249. The memo. was discussed with, and incorporated the comments of, the Colonial Office, War Office, and Mountbatten who subsequently issued it as a directive for his forces.

believe that his status as ruler has received recognition from the Supreme Allied Commander and his Commanders, may prejudice the plans of HMG.

To further put the Rulers on the defensive, the memorandum suggested that any Sultan guilty of "acts hostile to the British and Allied cause" could be apprehended and kept under close arrest. For those "Sultans" who had been appointed during the Japanese regime, on account of the death of the legitimate Sultan, the memorandum recommended that each one should be told that "the high status and appointment of Sultan is one which always requires the confirmation of HMG and that in his case this must clearly await HMG's careful consideration."<sup>23</sup> As Bourdillon later admitted, a climate of anxiety and uncertainty could only work in MacMichael's favour in his discussions with the Rulers:

Elaborate steps have already been taken to warn the Military Authorities, on entering Malaya, not to recognise the Sultan or pretending Sultan in any State as Ruler of that State, pending Sir Harold MacMichael's arrival. This makes it possible for recognition of any Sultan to depend upon that Sultan's willingness to co-operate in HMG's policy.

If the Sultan proved unco-operative, HMG would then reject him "in favour of other claimants who would be ready to co-operate."<sup>24</sup>

In the meantime, on 22 August 1945, the draft Cabinet paper drawn up by Bourdillon the week before<sup>25</sup> was finally endorsed by the new Secretary of State. Submitted on 29 August,<sup>26</sup> the Malayan Union policy was finally approved by the Cabinet, which also formally confirmed MacMichael's appointment for his mission to Malaya, on 3 September.<sup>27</sup> With the Cabinet sanction, all that remained now were the final arrangements for MacMichael's departure. As Bourdillon minuted two days later: "All preparatory arrangements have been made, and it only remains to press the appropriate buttons."<sup>28</sup> The only matter which required urgent attention was the related issue of publicity.

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23. Ibid.

24. Minute by Bourdillon, 6 Sep. 1945, CO 273/675 no. 50823.

25. See Bourdillon to Gent, 13 Aug. 1945, CO 825/42 no. 55104.

26. PREM 8/459 CP (45) 133.

27. CAB 128/1 CM (45) 27.

28. Minute by Bourdillon, 5 Sep. 1945, CO 825/42 no. 55104.

On the same day that the Cabinet approved the Malayan policy, Mountbatten's Chief Political Adviser, M.E. Denning, for instance, informed the Colonial Office that the MCP on 25 August had "rather stolen our thunder" by issuing an eight-point manifesto whose liberal terms, he noted, were "irreproachable". By not publicising its own "progressive policy" in advance,<sup>29</sup> Denning asserted, HMG had unwittingly "lost that element of surprise ... which would have been politically so valuable." On the other hand, the "very reasonableness" of the MCP manifesto made it all the more important, Denning added, that the "speediest and fullest practicable publicity" should be given to HMG's own plans "if we are not to create for ourselves a very difficult situation upon re-entry into Malaya."<sup>30</sup> But how far could the Colonial Office go towards meeting the genuine and pressing demand for publicity without endangering the policy itself? "Clearly", as Bourdillon remarked, "we cannot go the whole way." Any detailed exposition of the ends and means of British policy for Malaya was "impossible if only because it would forewarn the Sultans of the purposes of Sir Harold MacMichael's mission, which would thus lose that element of surprise which may be essential to its success."<sup>31</sup> On the other hand, MacMichael himself felt that some suitable publicity about his mission either before or after he left for Malaya would strengthen his hand significantly. As Bourdillon put it, "Once we have said openly ... we are irrevocably committed to the policy. Such a commitment is of course exactly what

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29. Some form of restricted publicity had been considered by the CO since the first quarter of 1944 but not implemented partly because Stanley felt that this might arouse controversy both in England and Malaya and might commit HMG to a policy which it might subsequently wish to alter in the light of local circumstances. See Stockwell, p. 34.
30. Denning to FO, 3 Sep. 1945, WO 203/5642 no. 1451/4. The 8-points of the MCP manifesto were: (1) support for the new world organisation; (2) establishment of a democratic government; (3) abolition of Japanese laws; (4) freedom of speech, publication, organisation, meeting and belief; (5) promotion of industrial, agricultural and commercial undertakings, livelihood, salaries and wages; (6) introduction of democratic system of education; (7) control of prices; (8) special treatment of anti-Japanese soldiers and relief for their families. See Purcell, "Malaya's Political Climate II", 20 Oct. 1945, WO 203/5302 no. 1249.
31. Minute by Bourdillon, 6 Sep. 1945, CO 273/675 no. 50823.



Sir Harold MacMichael requires, but it does seem to require a further reference to the Cabinet."<sup>32</sup>

Consequently, a further Cabinet paper was drawn up by Bourdillon advocating a phased programme of publicity commencing with a public statement by the Colonial Secretary in general terms and continuing with a more detailed statement timed to coincide with MacMichael's work in Malaya. Gater, however, at first demurred, preferring a single statement in Parliament which would "go the whole way" since a phased programme, he felt, would merely arouse questions which could not be answered. Gent's argument, however, prevailed: if nothing was published immediately, he reasoned, "it would be very difficult to hold the position for the next month" since, without a ready response from HMG, the attitude of the MCP might harden considerably.<sup>33</sup> With the concurrence of Attlee, the Colonial Office's latest plans for publicity were subsequently circulated to the Cabinet on 4 October. Significantly, the Cabinet was this time urged to affirm HMG's intention to carry through the policy in spite of possible obstacles from the Sultans:

Publicity in any detail about our Malayan policy commits us to the fulfillment of that policy. This means that we cannot allow ourselves to be deterred by an obstinate attitude on the part of any or all of the Malay Rulers with whom Sir Harold MacMichael will have to deal in his forthcoming mission ... All our plans for the Malay States depend upon the success of Sir Harold MacMichael's efforts to secure jurisdiction in each and all of the States. It is essential that his hand should be strengthened by the firm assurance that he can, if necessary make it clear to any recalcitrant Sultan that we intend to carry our policy through.<sup>34</sup>

Informed by Mountbatten that the ground in Malaya was indeed ready, MacMichael, accompanied by Bourdillon,<sup>35</sup> was subsequently flown to Colombo on 27 September. After further discussions with Mountbatten, both MacMichael and Bourdillon boarded HMS Royalist on 7 October for

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32. Ibid.

33. Minute by Bourdillon, 14 Sep. 1945, CO 825/42 no. 55104.

34. PREM 8/459 CP (45) 199.

35. Bourdillon was selected for the mission probably because the Explanatory Note (copies of which were to be handed to the Rulers) which he drafted impressed Willan, and MacMichael, who knew Bourdillon's father (Sir Bernard Bourdillon, Governor of Nigeria, 1935-43) while he had been Governor of Tanganyika, selected him to be his aide. See Stockwell, p. 50.

the final leg of the journey to Malaya, arriving at Port Swettenham on the morning of 11 October. A few hours before, HMG's intention to introduce the new constitutional changes in Malaya was announced to the House of Commons on 10 October by the Secretary of State. Sir Harold MacMichael, the latter added, had accordingly been appointed to visit Malaya to "arrange Agreements" with the Rulers for this expressed purpose.<sup>36</sup> A week later, in his specially imported large saloon car, with Union Jack blazing, MacMichael was speeded to his first encounter with the Sultan of Johore.

## II

From 8 to 29 September 1945, the DCCAO Malaya, H.C. Willan, on his part, had also been duly preparing the ground in Malaya for MacMichael's mission by contacting the Malay Rulers in turn, checking on their records during the Japanese occupation, and removing appointees he thought were anti-British. Three days after the main British occupation forces landed in Singapore, Willan, accompanied by the Senior Civil Affairs Officer (SCAO) Johore, Colonel M.C. Hay, made his way to Pasir Plangi Palace where they conducted their first interview with Sultan Ibrahim of Johore. Jealous of asserting Johore's independence, Ibrahim was "generally disliked" by pre-war British officers in Johore, partly because of his "uncertain temper" and also because of his inclination to be "persistently vindictive" towards any officer to whom he took a personal dislike.<sup>37</sup> Autocratic, shrewd, assertive, Ibrahim was considered by Willan as probably "the most difficult" of all the Sultans to interview but, to his surprise, Willan found the Sultan, whom he had never met before, "very friendly" and "genuinely pleased" to see him. Not once throughout the interview, Willan recorded, had Ibrahim "even hinted that the British had let him down by losing Johore." The Sultan, furthermore, showed "no signs of nervousness" and "appeared to have no guilty conscience" when Willan broached the subject of collaboration. Whatever anti-British speeches he had made, Ibrahim explained, these had been under Japanese orders and he had only been their "mouth-piece": "They always composed his speeches .... They were

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36. Parliamentary Debates, H.C., 10 Oct. 1945, Cols. 255-256.

37. See biographical notes on the Sultans in WO 203/5282 no. 1248.

not his own words or sentiments and no speech was delivered voluntarily by him." More remarkably, the Sultan in a letter to Hay the following day intimated his willingness to "serve under the British Military Administration", an admission Willan thought all the more amazing given Ibrahim's known insistence of his own independence. As Willan recorded: "[I]t is remarkable ... for the Sultan to say he will serve under anybody." Mellowed by the war, Ibrahim was "undoubtedly much more pro-British than he ever was before" and, in his "present state of mind", Willan opined that the Sultan would sign the Treaty: "He is a realist and is fully aware that he is dependent on HMG's support." It would therefore be wise, Willan suggested, to approach Johore first with regard to the negotiations for the new Treaties.<sup>38</sup> Should the Sultan prove unwilling, Willan proposed that his three sons should then be considered. The eldest, Tengku Mahkota, who was listed as "Black" by British intelligence, should be approached only after a full investigation into his wartime activities.<sup>39</sup> The third son, Tengku Ahmed, on the other hand, was "not a sufficiently strong character" to be earmarked for the office of Sultan. Only the second son, Tengku Abubakar, presently a Major in the BMA, and appointed as chairman, Sanitary Board in Kuala Lumpur, seemed a possible candidate. During his interview, however, Ibrahim was emphatic that Abubakar would not be permitted to enter Johore again because he had fled the State at the time of the Japanese occupation. Nevertheless, as Willan intimated, the Sultan's deep hostility towards his second son could in fact be employed to HMG's tactical advantage should Ibrahim prove recalcitrant: Abubakar might then be willing to sign the Treaty "which would put the prize of the Sultanate into his hands and thus allow him to return to the State of Johore." In such an event, Willan advised that Ibrahim should then be removed "out of the State and also out of Malaya; it

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38. See Report by Willan, 7 Oct. 1945, CAB 101/69 B/4/7.

39. The security classifications used by the British were as follows: "Whites" were those considered to be of no security risk; "Operational Blacks" were those who, though "White", were not allowed to return to their homes because they had seen or might see Allied dispositions - information which would be valuable to the enemy; "Greys" were those affected by enemy propaganda and could be a liability to security if released; "Blacks" were irreconcilables who were a security risk and must be detained. See "Classification of Suspects," 6 Aug. 1945, in WO 220/565, cited in Cheah, p. 267.

would be too dangerous to leave him there with ... Abubakar installed as Sultan."<sup>40</sup>

Travelling up to Klang on 14 September, Willan, accompanied by the SCAO Selangor, Colonel J. Shields, and Colonel H.G. Langworthy of the Police, was clear as to his next task: the deposition of the "Quisling" Sultan of Selangor, Tengku Musa-Eddin.<sup>41</sup> Located at his house, Musa-Eddin was briefly informed by Willan of his arrest and given one-and-a-half hours to prepare himself for his journey to Kuala Lumpur where he would then be flown to the Cocos Islands to serve his exile. In the meantime, Willan proceeded to the house of the legitimate Sultan of Selangor, Tengku Alam Shah, who was "overcome with joy at seeing me. He had tears in his eyes and could not express himself for a few moments." With the removal of Musa-Eddin, Willan opined that the way was now clear for direct negotiations with the legitimate Sultan. Noting that the latter was a "pleasant person", though not "a very strong character", Willan surmised that Alam Shah would sign as he was at present so overjoyed at the return of the British and the "re-recognition of himself as Sultan." Willan suggested that he should be approached next. Should Alam Shah refuse to sign, Willan proposed that the Tengku Panglima Besar, the late Sultan's second son who had been bypassed by Alam Shah, the third son, during the Selangor succession dispute before the war,<sup>42</sup> "might well be persuaded to do so with the Sultanate as the prize."

Kedah was the third State Willan visited, accompanied by Major Hasler, the acting SCAO Kedah and Perlis, on 17 September 1945. Although at first "overjoyed" at the presence of the British officers, the Kedah Regent, Tengku Badlishah, appeared "shaken" when Willan informed him that neither he nor his State Council could function during the period of military administration. When told further that he could not be recognised as Sultan, Badlishah became even more "nervous and disturbed". When the interview ended, Willan observed that the Regent "still looked worried" although he soon "recovered his composure and became more his

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40. See Report by Willan, 7 Oct. 1945, CAB 101/69 B/4/7.

41. Musa-Eddin's deportation to the Cocos had been discussed even before the war ended. As Hone intimated to Gibbons on 7 Aug. 1945: "We think that the first and most probable commitment will be the Quisling Sultan of Selangor, whom we must certainly remove as soon as we get him." See WO 203/5613 no. 1454.

42. See Yeo, pp. 169-184, for a discussion of the Selangor Succession Dispute.

normal self." Given his assessment that the Regent was a "nervous and timid individual", Willan surmised that "left to himself [he] would, in my view, readily sign." Constitutionally, however, Badlishah was bound to consult his State Council whose most astute member was Haji Sheriff, the State Secretary. Once the latter consented, "there should be no further difficulty."

Early next morning, Willan left Alor Star with Colonel F.S. McFadzean, the Deputy Chief Financial Adviser (DCFA), for Arau where he told the Perlis State Secretary, Tengku Syed Hussein, that his elder brother, Tengku Syed Hamzah, then officiating as Raja of Perlis, could not be recognised by the British and must move out of his palace immediately. Informed that the Raja would like to see him, Willan snubbed his overture and replied that he had "no intention whatsoever of seeing him." Willan then proceeded to Kangar where he interviewed Tengku Syed Putera, the heir apparent, who had been chosen by the majority of the Perlis State Council in April 1938. On the subject of collaboration, Willan was delighted to note that Syed Putera showed "no nervousness" and in fact "welcomed" the policy of investigating an alleged collaborator. Summing up his interview, Willan opined later that the latter, then only twenty five years of age, was of a "pleasant disposition" and very "pro-British": "He has had a very hard time during the Japanese occupation and I have little doubt that he himself will sign a new treaty." As in Kedah, he was bound to refer the matter to the State Council, but, as Willan encouragingly added, the loyal members of the pre-war State Council whom he had met "struck me as pleasant, easy persons who would not create difficulties." Before leaving Kangar, Willan was given another piece of good news: Syed Hamzah had formally relinquished all claims to the office of Raja of Perlis.

The following evening, Willan arrived at Kuala Kangsar for his meeting with Sultan Abdul Aziz of Perak. The Sultan, who was personally known to Willan, was "obviously pleased" to see him and the interview consequently was conducted on a very cordial and friendly level. On the subject of collaboration, the Sultan "showed no nervousness" but admitted that, like the Sultan of Johore, he had been instructed by the Japanese to make anti-British speeches during the war. Informed by Willan that neither he nor the State Council could function under the military administration, Aziz immediately "saw the force of this and made no demur." Although Willan expressed himself "well satisfied"

with the interview and opined that the Sultan had "nothing to fear from us" regarding his conduct during the Japanese occupation, he nevertheless came away with the impression that Aziz might in fact "prove the most difficult of all": "He is a deeply religious man and would weigh up more than any other Malay Ruler the effect the new treaty would have on the Perak Malays." If he refused to sign, then "the only course open is to deal in turn with the Raja Muda, a somewhat simple person, failing him, with Raja Bendahara and finally with the Raja di-Hilir. This is the adat of Perak."

Willan found the Yam Tuan of Negri Sembilan, Tengku Abdul Rahman, whom he interviewed at Sri Menanti on 23 September "more reserved" than any of the others he had met. As the Yam Tuan was known personally to him, Willan was somewhat disappointed that he had not been "more forthcoming" during their conversation. Nevertheless, he noted that Abdul Rahman expressed "no apprehension" when told that neither he nor his State Council could function and, on the question of collaboration, the Yam Tuan had also indicated his appreciation for the policy explained by Willan. Since the Yam Tuan appeared to be "somewhat depressed" and "perplexed as to how his State can recover itself", Willan surmised that he would probably "welcome directions rather than advice": "Being a lawyer he will appreciate better than any other Sultan the reasons behind the new constitution and having done so I think he will sign the new treaty." But as the constitution of Negri Sembilan required the approval of the Undang (lawgivers), whom Willan had so far not met, he had "no idea what their reaction will be to a new treaty."

On 28 September, after arriving in Kuantan from Kuala Lumpur, Willan travelled the twenty eight miles to Pekan where he interviewed Sultan Abu Bakar of Pahang, whom he had met briefly during the latter's wedding in Kuala Lumpur in 1926. Given that the Sultan had "never been very talkative", Willan found the interview "an uphill task". Encouraged to talk about his wartime experiences, the Sultan appeared "slightly nervous", admitting that he had made some monetary contributions to the Japanese, had attended their functions, as well as delivered pro-Japanese speeches, but these, he stressed, had been made under their instructions and he had no alternative but to adhere to their orders. Informed about the BMA's policy on collaboration, Abu Bakar, however, showed "no nervousness at all" and Willan surmised that, from reports he had received, it appeared that the Sultan "in no way actively collaborated

with the Japanese." There was no doubt whatsoever, Willan added, that Abu Bakar "is genuinely pleased to see the British back and at present is 100% with us." With regard to signing the Treaty, he should therefore "not prove difficult."

Leaving Kuantan by air the following morning, Willan arrived slightly over an hour later at Kuala Trengganu where he was met by Lieutenant Colonel D. Headly, the SCAO Trengganu. At Headly's suggestion, Willan first conferred with the Mentri Besar, Dato Jaya, regarded as "absolutely reliable and very pro-British", who explained to Willan that Malay opinion in Trengganu was generally against the installation of Raja Ali as Sultan. Apart from his "extremely friendly" attitude towards the Japanese, the Trengganu Malays were also "disgusted" at his behaviour with his Malay mistress. Given the adverse report, Willan was convinced that Ali "cannot possibly become Sultan." His subsequent interview with the latter was therefore deliberately stiff and short, lasting only fifteen minutes. Pointedly told that he cannot be recognised as Sultan and that an investigation would be made into his conduct during the war, Raja Ali, Willan recorded, turned "very nervous ... and became somewhat pale." As Ali proved unsuitable, the next in succession was the late Sultan's second son, Tengku Aziz, who appeared to have "behaved well" during the occupation. Many people in Trengganu, however, would have preferred the late Sultan's younger brother, Tengku Paduka, to be installed instead but this would mean breaking the adat. Willan advised that this should first be discussed with Dato Jaya. If he agreed with the new constitution, then Willan anticipated no difficulty in obtaining the signature of either Aziz or Paduka, whichever one was approached.

Later than afternoon, Willan flew to Kota Bahru for his final, and relatively "easy", interview with the "Sultan" of Kelantan, Tengku Ibrahim. Badly treated by the Japanese, who smashed up all his furniture and interrogated him for over five hours "sometime at the point of the pistol", Willan had no doubt that Ibrahim "hates the Japanese." Finding him a "pleasant person", though "with not much strength of character", Willan surmised that Ibrahim "should not prove difficult": "I have little doubt he will sign. He is only too anxious to be properly confirmed as Sultan and to get his son confirmed as Raja Muda ... in my view the Raja will sign anything to get both himself and his son firmly entrenched in those positions." Should he prove

unexpectedly recalcitrant, Willan felt that Tengku Mahyiddeen, the second son of the former Raja of Patani, and currently a Major in the BMA,<sup>43</sup> would probably "agree with the new constitution and would be a good propaganda agent in its favour."

Tactically, Willan proposed that Johore, Selangor, Negri Sembilan and Pahang should be approached in that order. Once these had signed, "I do not see how the Sultan of Perak can refuse to sign." With the latter five signatures in the bag, and presumably with the impact of Musa-Eddin's deposition and Syed Hamzah's voluntary abdication serving as a clear example and warning, Willan anticipated no serious difficulties with the other four northern States "where there are no recognised Sultans." MacMichael's arrival was therefore awaited "with great interest" by Willan, if only to see if "events may prove me to be 100% wrong."<sup>44</sup> In fact, he was nearly always right.

### III

Willan had done his job well.<sup>45</sup> Johore, which MacMichael visited first on 18 October, offered no resistance, although Ibrahim indicated his intention to prepare a memorandum expressing his comments on the Explanatory Note<sup>46</sup> which MacMichael had handed to him for his personal and confidential perusal. When MacMichael expressed the hope that it would not be couched in "conditional terms", Ibrahim quickly and categorically disclaimed any such intentions, and, by a wave of the hand, assured the British envoy that "these are all right by me." Two days later, the Treaty was signed without a "hitch or awkwardness at any stage"

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43. Mahyiddeen before the war had been Director of Education in Kota Bahru and, during the Japanese invasion, he escaped to India, where he was engaged on official propaganda work.

44. See Report by Willan, 7 Oct. 1945, CAB 101/69 B/4/7.

45. MacMichael later commended Willan, for instance, for his report which was of "great value" to him. See Sir H. MacMichael, Report on a Mission to Malaya, October 1945-January 1946. (London, 1946), p. 2.

46. This is reproduced as Annex I in MacMichael's report, Ibid. MacMichael's interviews with the Rulers followed a procedural pattern. He would sound out each Sultan for his views on the new policy and then hand him the Explanatory Note for his reading and discussion. Two or three days later, a second meeting would then take place during which the Treaty would be signed. MacMichael would then urge the Rulers to keep the Agreements confidential until an announcement by Hall.



and with "the greatest friendliness." Only then, did Ibrahim produce his promised memorandum, containing points relating to the Sultan's personal prestige and the status of Johore, but he did so with an almost deprecatory air, remarking with a smile that MacMichael must take it for what it was worth, and that if he saw fit he could throw it in the waste paper basket.<sup>47</sup> Anxious to secure British assistance for his return to London,<sup>48</sup> Ibrahim seemed more than eager to please and MacMichael had little doubt that he had signed willingly as indicated in a subsequent letter from Lady Ibrahim to him on 16 November: "His Highness sends you his kindest regards and is looking forward to meeting you again in London. He wants me to tell you that he has been bombarded right and left with letters and cables advising him to ignore anything concerning the Malayan Union, and he kept it all safely, torn into tiny bits, in the waste-paper basket."<sup>49</sup>

Similarly, MacMichael encountered no opposition in Selangor which he visited next on 23 October. There he found a "most friendly and courteous" but obviously "very nervous" Alam Shah who concluded the Treaty the following day expressing his "full assent" to the "entirely sound" document. The Sultan, however, specified a number of points which were of interest to him, relating to the establishment of the Malay Advisory Councils, the proposal to withdraw the Rulers from the State Councils, the position of Islam and District administration.<sup>50</sup> Unlike Ibrahim, who impressed MacMichael deeply, Alam Shah struck him as a "simple-minded little man with an excitable temperament" and who MacMichael was tempted to dismiss as a "nonentity": "His fussy nervousness cannot commend itself to the philosophic dignity of the East ... but here again [his] sincerity and common sense leave him in credit on the balance."<sup>51</sup>

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47. MacMichael to Hall, 21 Oct. 1945, CO 273/675 no. 50823/7/3. As the account of MacMichael's mission to Malaya has been considered in some detail by Stockwell (see pp. 47-59) only a brief account will be attempted here to maintain the continuity of the narrative. Recently opened files, however, permit us to discuss more fully the negotiations with regard to Negri Sembilan, Perak and Trengganu which had been closed at the time of Stockwell's researches.

48. See Stockwell, p. 51.

49. MacMichael to Gater, 24 Nov. 1945, CO 537/1588 no. 51953.

50. See Stockwell, p. 52. The establishment of the Advisory Councils was considered by Alam Shah as a "great improvement on the past"; he hoped, however, that the Rulers' withdrawal from the State Council would be properly explained so that it would not appear to be an affront to their prestige.

51. MacMichael to Gater, 25 Oct. 1945, CO 273/675 no. 50823/7/3.

Given that the Pahang Sultan was "no master of small talk", MacMichael found his interview with Abu Bakar on 31 October extremely "arduous for all of us." To a query by MacMichael, both the Sultan and Tengku Muhammad, his uncle and secretary, professed ignorance about Hall's Parliamentary statement of 10 October, a claim MacMichael later opined as "palpably untrue" since Abu Bakar soon after produced a typed document raising questions about the new policy. MacMichael surmised that the main opposition probably came from Tengku Muhammad who throughout the discussions had remained "studiously polite but entirely unresponsive." Left on his own, the Sultan would probably "be perfectly ready to co-operate." As MacMichael observed:

In reading out his 'points' the Sultan frequently halted, as though he had not fully grasped them himself. Once or twice he had handed the paper across to Tengku Muhammad, who calmly completed the point and then translated it. As I gave my answers, His Highness's heavy features remained unchanged but his eyes seemed to me on both occasions to flicker with mild satisfaction. I inferred ... that he found the answers reasonable in themselves and, furthermore, that he felt some relief that this would fortify him in resisting adverse pressure from any other quarter.<sup>52</sup>

Nevertheless, two days later, their anxieties assuaged by Newbould<sup>53</sup> - "an old friend" - the day before, the Treaty was finally signed "without further objection" although Abu Bakar handed MacMichael a memorandum containing points about the restriction of immigration, the provision of better education for the Malays, and the continuation of the policy of protection during the early stages of the new policy.<sup>54</sup>

The fourth State MacMichael visited - Negri Sembilan<sup>55</sup> - presented him with his first serious opposition. The preliminary meeting with the Yam Tuan on 13 November proved uneventful with Abdul

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52. Memo. by MacMichael, 1 Nov. 1945, Ibid.

53. Newbould, who spoke Malay, accompanied MacMichael as interpreter and played a vital role in ironing out difficulties with the Malays. See Stockwell, p. 50.

54. Memo. by MacMichael, 3 Nov. 1945, CO 273/675 no. 50823/7/3.

55. MacMichael had delayed visiting Negri Sembilan pending the settlement of the election of one of its lesser rulers, the Undang of Jelebu. See Stockwell, p. 53.

Rahman remaining "entirely non-committal" although MacMichael opined that, judging from his expression, "he found nothing surprising or distasteful in it." Here MacMichael was mistaken. At 4 p.m. the following afternoon, MacMichael accordingly met the Yam Tuan, now accompanied by the four Undang, for their second interview. Having been forewarned by the SCAO, Colonel J. Calder, who met the Malays an hour before, about a "certain reluctance" on their part, MacMichael at once "deemed it prudent to speak somewhat firmly" though, he added, "without any display of threat or coercion." After a lengthy explanation of the new changes, during which he asserted that he was "not in a position to make terms or to alter either the Treaty or the policy", MacMichael reiterated that his task was simply to seek their "co-operation" and added at the same time that the Sultans of Johore, Selangor and Pahang had already signed the Agreements. To a query by Dato Klana, the senior Undang and spokesman of the latter body, about the representation of the Undang on the proposed Advisory Council of Malay Rulers, MacMichael replied that a "difficult precedent" would be created by plural representation confined to any State in particular. He was, however, prepared to answer further questions "provided they did not concern minor details." Invited to comment on the proposals, the Yam Tuan's reply "disappointed" MacMichael:

After a pause, he merely observed that he had been intensely surprised to find that the proposals went further than the arrangements inaugurated some years previously by Sir Samuel Wilson: he had hoped that the purpose of my visit was to put those arrangements into fuller effect.

MacMichael retorted that the new proposals indeed went further than previous arrangements "for the obviously cogent reasons already explained." After a moment's murmured consultation, Abdul Rahman then stated without enthusiasm that if the terms could not be altered, then he and the Undang would accept it. To obviate the possibility of "any implied condition in this form of words" MacMichael immediately repeated that he was "powerless" to alter the Treaty in any respect whatever. "This," he recorded, "produced the desired unanimous and unequivocal acceptance." Of the four Undang, the Dato Klana impressed MacMichael the most. It was through his "leading part" that

the Yam Tuan was eventually persuaded to sign. Both the Undang of Jelebu and Rembau were younger men but "neither left me with any very positive impression." Almost illiterate and a man of "few and simple thoughts", the "aged and wizened" Undang of Johol, on his part, "contributed nothing to the afternoon's proceedings." Though not an Undang, the Tunku Besar of Tampin was also invited. Being a minor, he was represented by his sister, "a shy but attractive young lady ... [who] remained silent throughout the proceedings, contributing to them nothing but her signature." MacMichael left Sri Menanti, however, deeply disillusioned with the Yam Tuan:

Not only did he appear to be animated by excessive caution, but his manner, though perfectly polite, was at no time forthcoming and lacked something in graciousness. My impression ... that he and he alone was at the bottom of such opposition as I sustained was confirmed by what Colonel Calder told me afterwards: he said that the Dato Klana, who had travelled home with him in his car and who undoubtedly wields much of the real power in the State, had expressed to him his entire satisfaction with the new policy.<sup>56</sup>

In Perak, as Willan had predicted, MacMichael's task was also rough going. As MacMichael intimated to Gater, after his first interview with Sultan Aziz on 20 November, he "felt very doubtful ... whether His Highness would be willing to sign the Treaty at all."<sup>57</sup> Clearly, Aziz "felt both deeply and strongly" about the "surrender" of all powers to HMG and was especially perturbed at the conception of common citizenship which he feared would "spell the doom of the Malays." MacMichael quickly replied that HMG had no intention of depriving the Rulers of their influence: jurisdiction was only wanted as a prerequisite for action. Had the former been HMG's intention, MacMichael felt sure that Johore, Selangor, Pahang and Negri Sembilan would not have consented to the Agreements. MacMichael further reiterated that the citizenship proposals would in fact "crystallise the Malay majority and thus give the Malays a safeguard where at present they had none."

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56. Memo. by MacMichael, 15 Nov. 1945, CO 537/1541 no. 50823/7/5.

57. MacMichael to Gater, 24 Nov. 1945, CO 537/1588 no. 51953.

When Aziz intimated that he had prepared beforehand a memorandum laying down certain "conditions" whereby "some loose form of Union" was acceptable, MacMichael immediately discouraged him against forwarding any representations "which might not be couched in moderate terms." It would be "deplorable" if it was thought that Aziz had approached the problem in an "obstructive spirit." To MacMichael's entreaty that Aziz sign the Treaty "as a token of his faith" in HMG, the Sultan replied that this was a "big step" and he needed time to "reflect".<sup>58</sup>

The following afternoon, Aziz, accompanied by the Raja di-Hilir, the Raja Kechil Tengah and Dato Setia, had a "frank" but "friendly" talk with Newbould, a "personal friend". Newbould argued that the policy was in the best interests of Malaya and that Aziz was being given a "priceless opportunity" to help his own people along the lines laid down. Any delay, he added, would indeed be unfortunate as it would give the impression of a "hitch". To Newbould, who had anticipated a "difficult and possibly inconclusive talk", the interview surprisingly "turned out so much better than expected" largely because of the "common sense and public spirit which His Highness has in such unbounded measure."<sup>59</sup> The Sultan, however, wanted to "cover" himself with his Chiefs and on the morning of 22 November a further meeting with the latter was subsequently called with Newbould in attendance.<sup>60</sup> Aziz informed the Chiefs that he was going to sign "because it was the right course to adopt as he had implicit faith in the British Government." Nevertheless, he would be forwarding a detailed memorandum covering points of citizenship and Union to HMG. Some opposition was encountered, as Newbould recorded:

The meeting required careful handling ... some of the Chiefs were inclined to be less receptive. There is absolutely no doubt that they have grave misgivings how the Citizenship proposal is going to work in practice, although accepting the theory. The present is, of course, a most unfortunate moment to have to raise the question as the burning topic of conversation is the

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58. Memo. by MacMichael, 21 Nov. 1945, CO 537/1588 no. 51953.

59. Notes by Newbould, 21 Nov. 1945, Ibid.

60. Aziz felt that the Chiefs had a "right to know" since the succession to the Sultanate was not direct but was derived from 3 families which should be informed.

the attitude and behaviour of the Communists.<sup>61</sup>  
 At any other time the proposal would have had a far more balanced consideration. It is only natural that the present situation should exaggerate the fears of Malays, and the uncertainty of the numbers of aliens who will automatically be admitted to citizenship does not help.

In the end, the new policy was accepted primarily because of the realisation that HMG "holds the future destiny of the Malay race in its hands and that the Malays repose sufficient trust in us to see them through."<sup>62</sup> At 4 p.m. that afternoon, with MacMichael's arrival, the Treaty was finally signed.<sup>63</sup> MacMichael left Kuala Kangsar deeply impressed with Aziz - "a man of charm, integrity and intelligence"<sup>64</sup> who was "outstanding among the Malay Rulers"<sup>65</sup> - an impression confirmed also by Newbould: "My respect for His Highness has increased enormously: in him we have a leader who is both genuine, forthright and intelligent."<sup>66</sup> MacMichael had no doubts that Aziz was "entirely and sincerely satisfied" and had "no qualms" in signing the Treaty.<sup>67</sup>

Before embarking on his mission to the four northern Malay States, MacMichael had earlier sought authority from Hall to open discussions with the Malay personages earmarked by Willan for HMG's "recognition". Once each had indicated his readiness to sign, MacMichael proposed that he should then, in turn, recognise him on behalf of HMG.<sup>68</sup> Armed with Hall's authority, MacMichael duly proceeded on 29 November to his first stop - Kedah. Here, as in Negri Sembilan, Willan's earlier buoyant report seemed overly optimistic. "Kedah", MacMichael reported to Gater, "gave considerable

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61. After the Japanese surrender MPAJA guerrillas were reported to have emerged from the jungles and waged a "reign of terror" against suspected collaborators. This soon took on a racial aspect when Malays were attacked. See Cheah, pp. 223-240.

62. Notes by Newbould, 22 Nov. 1945, CO 537/1588 no. 51953.

63. Memo. by MacMichael, 22 Nov. 1945, Ibid.

64. Memo. by MacMichael, 21 Nov. 1945, Ibid.

65. MacMichael to Hall, 24 Nov. 1945, Ibid.

66. Notes by Newbould, 21 Nov. 1945, Ibid.

67. Memo. by MacMichael, 22 Nov. 1945, Ibid.

68. MacMichael to Hall, 25 Oct. 1945, WO 203/5293 no. 1249.

difficulty." The Regent was "obviously moved to the very depths ... by what he seemed to regard as the surrender of proud independence to a state of ignominious subjection."<sup>69</sup> Efforts to evade the issue by "an elaborate series of manoeuvres, intrigues and procrastinations" during the next three days by the State Council, in the end proved futile. As MacMichael triumphantly asserted: "The difficulty, equally obvious to all, was to visualise any alternative to acceptance of the new policy short of a flat refusal of which one consequence would clearly be the non-recognition of the Regent as Sultan." Arriving at 4.30 p.m. on 2 December, MacMichael informed Badlishah that his formal recognition as Sultan would depend "on his assurance that he was prepared to sign the Treaty." As the written consent of the State Council was required before the signing of a new Treaty,<sup>70</sup> MacMichael then asked the councillors as well as the Regent whether they would be prepared to sign. Reluctantly, with "no other course ... open", they consented.<sup>71</sup>

Contrasted with Kedah, MacMichael found Perlis friendly and "with no vestige of ill will." Nevertheless, during his first interview on 3 December with Syed Putera, the heir apparent, MacMichael was careful to distinguish between the former's election as Raja by the State Council - which the British envoy concurred - and his recognition by HMG which had not yet been given. Recounting that the Rulers of the other six States had already signed, MacMichael urged him and his State Council to follow their lead - even if they might not entirely agree with the contents of the Explanatory Note - as an earnest indication of their willingness to co-operate with HMG. Though he would forward their views to London, MacMichael stressed, however, that he could not accept "conditions".<sup>72</sup> When MacMichael arrived the next morning, he was informed that the Malays, while not reneging on their agreement to sign the Treaty, nevertheless wanted the actual signature postponed until after MacMichael had visited

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69. MacMichael to Gater, 8 Dec. 1945, CO 273/675 no. 50823/7/3.

70. See clause 3 of the Kedah Treaty in J. de V. Allen, A.J. Stockwell, and L.R. Wright, A Collection of Treaties and Other Documents Affecting the States of Malaysia 1761-1963, I (London, 1981). p. 175.

71. Memo. by MacMichael, 30 Nov. 1945, CO 273/675 no. 50823/7/3.

72. Memo. by MacMichael, 3 Dec. 1945, Ibid.

Kelantan and Trengganu. Otherwise, it was feared that the exact coincidence of dates between the signing of the Agreement and the recognition of the Raja "might create the impression ... that Syed Putera was signing for the sake of recognition as Raja." Sensing delay, MacMichael pressed for an immediate settlement, arguing that the request for a postponement might be misunderstood by HMG and that would be most unfortunate. It was only when Syed Putera declared his undertaking to sign that MacMichael finally recognised him as Raja.<sup>73</sup> That the Treaty had been concluded reluctantly was clear from a memorandum the Raja handed to MacMichael shortly before his departure. When translated, it spoke of a "draft agreement" to which the Council members were "unanimously not prepared to agree". Its tone, as MacMichael reported to Gater, was definitely "tendentious".<sup>74</sup>

If Perlis signed reluctantly, Kelantan proved "most desirous to co-operate."<sup>75</sup> Part of the reason, which Willan had already alluded to, stemmed from Tengku Ibrahim's anxiety for swift recognition by HMG, a point which MacMichael particularly noted in his interview with Ibrahim on 15 December:

His Highness, I said, would observe that in the Treaty his name and titles had been left blank. This was because he had not as yet been recognised as Sultan by His Majesty's Government ... The Treaty, of course, could only be signed by him in the style which he might adopt when recognised - a matter which His Majesty's Government had left within my discretion.

Though he would not hurry him, MacMichael nevertheless warned that he would "deprecate undue delay, which might give rise to such difficulties as popular misunderstanding and agitation."<sup>76</sup> The following day, Newbould conferred with Nik Ahmed Kamil, the Deputy Chief Minister, who he found "intelligent, sensible and open minded"

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73. Memo. by MacMichael, n.d., Ibid.

74. MacMichael to Gater, 17 Dec. 1945, Ibid. The memo was later redrafted to MacMichael's satisfaction. See Stockwell, p. 58.

75. Notes by Newbould, n.d., CO 273/675 no. 50823/7/3.

76. Memo. by MacMichael, 15 Dec. 1945, Ibid.



and generally supportive of the new policy.<sup>77</sup> Partly through his influence, Ibrahim consequently expressed himself "entirely satisfied" with the Treaty which he signed on 17 December. The Sultan nevertheless submitted a memorandum, drafted by Nik Kamil, which Newbould thought was a "very statesmanlike document" entreating HMG, among other things, to tighten the citizenship provisions by excluding Singapore residents from qualifying as Malayan Union citizens since the Island itself had been excluded from the Union and making both birth and domicile, a knowledge of the Malay language, as well as the requirement of an oath of allegiance as additional qualifications for those admitted automatically. MacMichael left Kelantan deeply impressed by the new Sultan who "ranks in my mind but little behind the Sultan of Perak" and the "calibre" of his advisers.<sup>78</sup> The Kelantan negotiations, he happily reported to Gater, "were the most pleasant I have yet experienced."<sup>79</sup>

MacMichael's task in Trengganu - the final State on his itinerary - had been eased somewhat by the removal of the pro-Japanese Raja Ali and his replacement by Tengku Paduka as Sultan on 16 December.<sup>80</sup> But if the former's deposition removed one obstacle, the 1911 Trengganu Constitution, which forbade the Ruler to surrender the country and its Government to a foreign Government, presented another to be overcome. Anticipating some difficulty, and wanting to emphasise the tactical point that the newly installed Sultan had not been recognised by HMG, MacMichael dispensed with the usual courtesy of visiting the Sultan at his palace and requested a "very nervous" Sultan Ismail to visit him instead at the Residency on 19 December. Careful to forestall any impression that HMG could be "deflected" from its chosen course, MacMichael, after outlining the policy to Ismail, then informed him of the "additional factor" of the recognition of the new Rulers which "had been left to my hands." Anxious to "get away" by the 22 December, MacMichael hoped the Treaty could be signed by the 21 December.<sup>81</sup> At Ismail's request, Newbould was called in for a personal talk with the former the following afternoon. Apart from his "mistrust" of the citizenship

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77. Notes by Newbould, n.d., CO 273/675 no. 50823/7/3.

78. Memo. by MacMichael, 17 Dec. 1945, Ibid.

79. MacMichael to Gater, 19 Dec. 1945, Ibid.

80. Stockwell, p. 56.

81. Memo. by MacMichael, n.d., CO 537/2138 no. 51786.

clauses, which he felt should include a qualifying period of at least twenty years, Ismail informed Newboulton that both himself and members of his Council whom he had consulted felt themselves unable to sign the Treaty so long as the Trengganu Constitution remained in force. Newboulton replied that the latter had not been recognised by HMG but probably sensing that Ismail, then only newly installed, was still insecure in his position, he decided instead to open "a frontal attack with frank and blunt speaking" with the other members of the Council whom he knew quite intimately later that evening. The value of the new policy, Newboulton later reported, was clearly evident and the opposition, when it came, was "spiritless and forlorn of hope." As for the "awkward" constitutional point, Newboulton argued that a similar clause in the Johore Constitution had not apparently been regarded by the Sultan of Johore as a bar to signing. The issue, as the pro-British Dato Jaya forcefully argued, was a simple one: was Trengganu prepared to trust HMG?<sup>82</sup> His "common sense" prevailed and the Treaty was signed the following morning and a memorandum was also forwarded for HMG's consideration. The Sultan, MacMichael observed, had "lost all his nervousness of yesterday and showed real natural charm combined with dignity."<sup>83</sup>

MacMichael accomplished his mission with some measure of opposition from the Malay States. In his published report he mentioned encountering an "undercurrent of antagonism" only in two cases - Kedah and Negri Sembilan. In fact, apart from Johore, Selangor and Kelantan - which appeared to have signed willingly - the other States had accepted the Treaties only reluctantly. True, MacMichael had not found it expedient to resort to overt threats during his interviews with the Rulers - their acquiescence in the end made such a display unnecessary - but only because he was too experienced a negotiator not to be aware of the obvious dangers of such "brusqueness" which would certainly "have left a feeling of resentment."<sup>84</sup> That the timing of his mission - during the period of military administration

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82. Notes by Newboulton, 21 Dec. 1945, Ibid.

83. Memo. by MacMichael, 21 Dec. 1945, Ibid.

84. MacMichael to Gater, 19 Dec. 1945, CO 273/675 no. 50823/7/3, cited in Stockwell, p. 63.

when the Rulers felt vulnerable<sup>85</sup> - and the tactics he employed with the individual Rulers - from the choice of his "high sounding" title to the handling of the question of "recognition" - had been calculated to exert maximum "pressure" on the Rulers to sign there can be no doubt. MacMichael, for instance, chose to consult the Rulers not as a body - which would have been perfectly consistent with the spirit and object of the new policy of associating the Rulers in the wider affairs of the "Union" - but as individual Princes. "Separate negotiation", as Sir Theodore Adams later related to the official historian, F.S.V. Donnison, "immediately caused the Sultans to fear that they were being 'got at'." Had the former course been admitted, Adams surmised that "the treaties would never have been signed."<sup>86</sup> By dealing separately with the Rulers, MacMichael was thus able tactically to capitalise on the "demonstration effect" of his mission through the various States: by reminding his audience that the Rulers of the States he had visited had already signed identical treaties, MacMichael often left his interviewee in fact with little option to do otherwise. Urged on to imitate Johore's lead, an indignant Kedah Regent, for instance, stiffly protested that he was "not bound to follow Johore's example."<sup>87</sup> Called upon to sign away their sovereignty, the Rulers were given only two to three days to decide on a matter which the Sultan of Perak called "a big step" that required unhurried reflection. Indeed, in both Perak and Trengganu - two States where he had encountered some resistance, MacMichael's notes revealed that he had in fact urged the Rulers against any delay in signing. That the Treaties might perhaps have been too hastily signed was later admitted by the Colonial Office. Perusing the various memoranda received from the Rulers, W.S. Morgan, for instance, minuted: "Generally, these papers leave me with an uneasy impression that the Malay Rulers have not fully grasped the implications of the new policy and that second thoughts may produce further memoranda."<sup>88</sup> Throughout his discussions, MacMichael

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85. Badlishah was reported to have said, for instance, "I am bound to do this thing; they have troops in my country and I cannot do otherwise." "Note of discussion with Sir Theodore Adams" by Donnison, 12 Oct. 1950, CAB 101/69 B/4/7.

86. Ibid.

87. Memo. by MacMichael, 30 Nov. 1945, CO 273/675 no. 50823/7/3, cited in Stockwell, p. 57.

88. Minute by Morgan, 1 Jan. 1946, CO 273/675 no. 50823/7/3.

encouraged no impression that HMG could be "deflected" from its course. He was explicit that he would not accept any representations couched in "conditional" terms - there could therefore not have been any real "negotiations". In the four northern States, MacMichael refused to recognise any of the Rulers until they had given him an undertaking to sign. As Adams put it, "The Sultans inevitably linked the two processes."<sup>89</sup> That such an impression was in fact created was later admitted by Paskin: "... it is difficult to deny that the impression may well have been created that willingness to sign the Agreement was one of the conditions of 'recognition'." If MacMichael found no evidence of "culpable collaboration" with the Japanese on the part of the other Rulers of the Malay States, he had taken no formal action to indicate to them that their records were officially accepted as "clean". "Here again", opined Paskin, "the intention was to leave the matter open so as not to prejudice the possibility of replacing a Ruler if he did not show any disposition to be co-operative with Sir Harold MacMichael."<sup>90</sup> No doubt, as Newbould later argued, MacMichael was merely "under instructions from home"<sup>91</sup> - and he himself was meticulous in abiding by his terms of reference.<sup>92</sup> But in his private dealings with the Rulers it was quite apparent that some pressure, if implied, had nevertheless been applied to secure the desired results. If MacMichael's name later became a byword for intimidation it is perhaps understandable why his record could not totally exonerate him. "His attitude to [the] Malays", as Adams later recounted to Donnison, "was superior and lacking in understanding" and paid "insufficient allowance for essential deference and good manners"<sup>93</sup> - an assertion partly borne out in some of MacMichael's comments on the Malay Sultans<sup>94</sup> and his display of discourtesy, for instance, in requesting the Sultan of Trengganu to

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89. See "Note of discussion with Sir Theodore Adams" by Donnison, 12 Oct. 1950, CAB 101/69 B/4/7.

90. Minute by Paskin, 21 May 1946, CO 537/1553 no. 50823/34/6.

91. Newbould to Donnison, 20 Aug. 1950, CAB 101/69 B/4/7.

92. Stockwell, pp. 62-63.

93. "Note of discussion with Sir Theodore Adams" by Donnison, 12 Oct. 1950, CAB 101/69 B/4/7.

94. MacMichael, for instance, was tempted to dismiss Alam Shah as a "nonentity". His more lurid comments, however, were reserved for Badlishah whom he termed a "rather shallow being ... small shy and retiring 'Failed B.A.' type ... rather a pathetic figure." MacMichael to Gater, 8 Dec. 1945, CO 273/675 no. 50823/7/3.

visit him at his Residency for his interview.

While MacMichael, his task completed, embarked on 6 January 1946 on a leisurely cruise for England before taking up his next assignment - as Commissioner to Malta - Bourdillon flew home to London with the documents to assist in the next stage of the preparations: the final drafting of the White Paper on Malaya and the Order-in-Council which would bring the new constitution into effect. None of the representations from the Sultans, however, carried much weight in the Colonial Office. Meeting a strict January deadline for the publication of the White Paper the Colonial Office was in no mood for last minute changes. Of the memoranda submitted by the Rulers, it found itself able to agree to only one concession, namely that all those acquiring citizenship other than by birth would be required to take an oath of allegiance to the Union.<sup>95</sup>

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95. Minute by Morgan, 1 Jan. 1946, Ibid.

## CHAPTER SIX

## REACTIONS TO THE JANUARY WHITE PAPER

... the political forecast meant storms.

BMA Report for Jan. 1946.

The immediate circumstances which greeted the British in Malaya at the onset of the New Year, however, were hardly auspicious for the unveiling of a new political experiment. The shortage of supplies, particularly rice, had adversely affected Malaya's economic rehabilitation and caused "great anxiety"<sup>1</sup> amongst her peoples. Politically, the BMA was confronted with the challenge from the MCP then waging a determined campaign of strikes and agitation to "cause embarrassment to the administration. Every move was designed to stir up hatred and contempt for the BMA and it became clear that an attempt was being made to subvert established law and order."<sup>2</sup> Already competition in the economic and political spheres were increasingly manifested in heightened social tensions among the communities, in particular, between the Chinese and Malays, resulting in serious communal clashes in Johore, Malacca, Pahang, Kedah, Kelantan, Trengganu, and Perak between September and December 1945.<sup>3</sup> Sino-Malay distrust had driven a dangerous wedge between the two communities, and, as Newbould pointed out, there could be "no illusion that the feelings which fostered these outbreaks have in any way disappeared ... we must remember that Malay feelings have been roused to such an extent that it will leave a lasting impression during the years to come."<sup>4</sup> The announcement in Parliament on 10 October 1945 of HMG's new scheme for Malaya and MacMichael's subsequent mission to obtain the Treaties further exacerbated Malay fears of Chinese domination. As the BMA report for December 1945 noted:

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1. BMA Report for Jan. 1946, in CO 537/1572 no. 51056.

2. Ibid.

3. See Cheah Boon Kheng, Red Star Over Malaya, (Singapore, 1983), pp. 232-240.

4. Memo. by Newbould, 22 Jan. 1946, WO 203/5660 no. 1456/1.

In Kelantan racial feeling between Malays and Chinese flared up after the visit to the Region of Sir Harold MacMichael. An orderly demonstration by Malays protesting against the proposed creation of a Malayan Union was followed by an outbreak of violence in which three Chinese and two Malays were killed and several more injured.<sup>5</sup>

Both planning and tactical constraints, however, militated against any serious departure from the constitutional arrangements already devised. Unaccustomed to playing a semi-political role, and unpopular with the local people, the BMA was anxious for a quick resumption of civil authority. The BMA, for instance, soon found itself engaged in conducting "at great pressure an administration which is virtually 'civil' in all but name" - a task contrary to its original description:

... the position of the Military Administration was extremely difficult. One of the principles laid down for the Chief Civil Affairs Officer and his staff was that they should avoid, as far as possible, major political issues, these being no concern of the Military Administration and suitable to be dealt with only by the Colonial Office and the Civil Governments when they resume control.<sup>6</sup>

The disruption of supplies, and the BMA's consequent inability to deal with the high post-war expectations of the local population, had also weakened the BMA's stature in the minds of the people. "The BMA", as Purcell reported, "is held responsible for delay in producing normality and for high prices."<sup>7</sup> There was therefore considerable - if unrealistic - expectation that "on the very day that the Civil Government is re-established all that it considers most undesirable about the present administration will be changed in the twinkling of an eye."<sup>8</sup>

On its part, the Colonial Office was equally anxious to ensure the prompt reimposition of civil government. "The plain answer", minuted Bourdillon, "is that HMG, had they allowed any delay in setting up the new policy, would have missed an opportunity for reform which

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5. BMA Report for Dec. 1945, in CO 537/1572 no. 51056.

6. BMA Report for Feb. 1946, Ibid.

7. Purcell, "Malaya's Political Climate III", 10 Nov. 1945, WO 203/5660 no. 1456/1.

8. BMA Report for Nov. 1945, in CO 537/1572 no. 51056.

might never recur":

The only alternative to the course which HMG has actually adopted was to let the old system with its multiplicity of authority, its divided loyalties and its political stagnation, re-establish itself and then to set about changing it. This alternative only has to be stated in order to be discarded. HMG were bound, in the interests of Malaya and all its inhabitants, to waste no time in taking those first steps - the establishment of political union and common citizenship - without which the country cannot progress.<sup>9</sup>

The deadline for the transition from military to civil administration, tentatively scheduled for 1 March 1946 (six months after the imposition of military authority), was already approaching, and coupled with the need to ensure that the new proposals were ready for publication as a White Paper to coincide with the introduction in Parliament of the Straits Settlements (Repeal) Bill on 22 January 1946, the only piece of Parliamentary legislation necessary to effect the new constitutional arrangements, the Colonial Office had little choice except to proceed in tandem with the momentum already generated.

With the 22 January deadline before him, Hall on 7 January approached the Colonial Affairs Committee for its immediate sanction of the new policy prior to its consideration by the Cabinet. Informed that the time factor was important, the Committee tacitly endorsed the scheme even though it was somewhat nervous about the diplomatic ramifications of the new policy. The India Secretary, for instance, was worried about the repercussions in India on the position of the Indian Princes: "They at present had a much larger measure of autonomy than the Malay Rulers, but some alteration of their position in the near future was inevitable."<sup>10</sup> For the moment, Pethick-Lawrence feared that Indian Congress propagandists might seize the opportunity to demand from the Indian Rulers the similar surrender of jurisdiction within their States

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9. Bourdillon to Paskin, 23 Jan. 1946, CO 537/1528 no. 50823 Pt. I.

10. CAB 134/52 C(46) 1. For discussion about the position of the Indian Princes, see S.R. Ashton, "The India Office and the Malayan Union: the problem of the Indian Princes and its possible relevance for British policy towards the Malay Rulers, 1943-1946", unpublished paper presented at the joint IOLR-SOAS seminar on 30 Sep. 1985.



so as to further their goal of a unified Indian Government. The Minister of State, Noel-Baker, was equally apprehensive at the meeting of the "embarrassment" the British policy would cause to the Dutch, then already in some difficulty with the more intransigent sections of Dutch opinion for sanctioning "very liberal proposals" for the NEI. The exact date of the publication of the White Paper would therefore have to be closely timed to afford the least political damage to the Dutch.<sup>11</sup>

Three days later, the draft White Paper was urgently considered by the Cabinet, which was also informed that the former should be presented as soon as Parliament reassembled, so as to be available when the Straits Settlements (Repeal) Bill was debated. Given the consent of the Colonial Affairs Committee, the Cabinet quickly endorsed the proposals.<sup>12</sup> Published simultaneously with the First Reading of the Straits Settlements Repeal Bill on 22 January, the White Paper<sup>13</sup> immediately embroiled the Colonial

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11. CAB 134/52 C (46) 1. The reassertion of Dutch rule in the NEI provoked armed clashes with the local Indonesian forces which had declared Indonesia's independence on 17 Aug. 1945. Partly to defuse the situation the Dutch announced on 6 Nov. 1945 a new scheme providing for the formation of an Indonesian Government in which the Indonesians would occupy most of the Cabinet posts although headed by the Governor-General. Indonesia would become an autonomous State and a partner in the Dutch Commonwealth, the machinery of which would be worked out in a round table conference. See Yong Mun Cheong, H.J. van Mook and Indonesian Independence: A Study of His Role in Dutch-Indonesian Relations, 1945-48, (The Hague, 1982), pp. 50-51.
  12. CAB 128/5 CM (46) 4.
  13. See Malayan Union and Singapore: Statement of Policy on Future Constitution, Cmd. 6724, (Jan. 1946). The White Paper provided for both territories to be administered by their respective Governors and co-ordinated by a Governor-General. The local Councils would be presided by the Resident-Commissioners and the Central Authority would consist of the Governor presiding over an Executive and Legislative Council. The Rulers would only be involved in the newly constituted Malay Advisory Council in each State, in which they would preside, and the Central Advisory Council of Malay Rulers, to be chaired by the Governor, and concerned mainly with religious matters. The Ruler could appoint members to his Advisory Council, legislate on religious matters and discuss any other matters - but only with the assent of the Governor. A common "Malayan Union Citizenship" would also be created, admitting automatically (1) persons born in either the Malayan Union or Singapore or (2) persons ordinarily resident in these territories for ten out of the preceding fifteen years (disregarding the period of Japanese occupation). Citizenship by application could be acquired after a period of five years' residence in either territory.

Office in new controversy concerning its latest constitutional experiment. Its effect, as Hone remarked, "was like an electric shock."<sup>14</sup>

## II

As it turned out, little had been done to prepare public opinion in Malaya for the news of the announcement in London. Owing to the delay in transmission, no copy of the White Paper was distributed in advance to the Malayan press, which learned of the proposals only through the BBC report received at 2330 hours on Tuesday, 22 January, and from the Reuter message received at 1000 hours the following morning.<sup>15</sup> Indeed, the BMA received the complete text of the White Paper - timed to be issued simultaneously with the pronouncement in London - only on 23 January.<sup>16</sup> Whilst the White Paper was immediately rushed into print, the press was informed on 24 January that the complete text would be available as a Gazette Extraordinary on the morning of 25 January. By then, however, coming three days late, the White Paper was no longer a major news event, having been overshadowed by the general strike in Singapore. As the BMA report for January put it:

The publication of the White Paper ... cannot be said to have caused any great stir ... [The] local newspapers were too concerned with the strike and its aftermath to give the announcement much space or comment.<sup>17</sup>

Only the Singapore English press published the text in full. Not a single Chinese newspaper published the complete text and, apart from the Kuala Lumpur Jananayakam and Malaya Tribune, the upcountry papers confined themselves to either publishing the Reuter report or summaries of the latter. Up to 31 January, apart from the Singapore Chinese press, the upcountry Chinese papers had not commented on the proposals at all.<sup>18</sup>

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14. H.R. Hone, Report on the British Military Administration of Malaya, September 1945 to March 1946, (Kuala Lumpur, 1946), p. 62.
  15. See "Malayan Press Comment on the White Paper on Malayan Union", n.d., in CO 537/1536 no. 50823/6/4.
  16. Although the text of the White Paper had been forwarded by fast air mail on 9 Jan. 1946 it had failed to reach the BMA by 22 Jan. 1946. See Hone to Gater, 22 Jan. 1946, CO 537/1528 no. 50823 Pt I.
  17. BMA Report for Jan. 1946, in CO 537/1572 no. 51056.
  18. See "Malayan Press Comment ...", CO 537/1536 no. 50823/6/4.

On its part, the BMA stuck to its assigned role and took no active step to embark on a positive publicity campaign to win support for the White Paper's proposals. Precluded from entering into political discussions, the BMA, in this instance, stuck to the letter of its authorisation and remained faithful only to its task of keeping the Colonial Office informed of the position. As it rationalised: "In the light of subsequent developments it seems clear that a large publicity campaign, even if staff and other resources had been available, conducted by the Military Administration might well have defeated its own purposes. Those who have criticised the White Paper proposals have done so freely and without restraint."<sup>19</sup> Not all agreed with that assessment. On 4 February, Newbould informed Lloyd, for instance: "You will see that we have got a tremendous propaganda problem ahead of us."<sup>20</sup> Three days later, he again entreated: it was "abundantly clear that active and intelligent propaganda required in Malay Peninsula to put White Paper correctly before all communities affected."<sup>21</sup> His pleas apparently fell on deaf ears and it was not until 23 February that the Colonial Office finally decided to reassess popular reaction from the ground. "Coming from Brig. Newbould", Bourdillon minuted, "I think this can dispel from our minds any idea that the various reactions need not be taken seriously."<sup>22</sup> By then, however, it was already too little, too late.

Not surprisingly, the White Paper won few friends and made new enemies. Among those whom it sought to benefit, principally the Chinese, the White Paper evoked only small enthusiasm, if not open scepticism. Authorised by Mountbatten to report on local reactions to the White Paper, the SEAG Director of Intelligence lamented mournfully: the initial Chinese attitude was "completely apathetic."<sup>23</sup> Given that "in times of scarcity the most important political facts are economic ones,"<sup>24</sup> it was perhaps not unreasonable for the Chinese, as for the other communities, to be distracted more by the demands of post-war

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19. BMA Report for Feb. 1946, in CO 537/1572 no. 51056.

20. Newbould to Lloyd, 4 Feb. 1946, CO 537/1554 no. 50823/34/7.

21. Newbould's comments cited in telegram from Hone to CO, 7 Feb. 1946, CO 537/1548 no. 50823/34.

22. Minute by Bourdillon, 23 Feb. 1946, CO 537/1528 no. 50823 Pt I.

23. Memo. by H.C. Guernsey, 19 Feb. 1946, WO 203/6203 no. 1375/1.

24. BMA Report for Jan. 1946, CO 537/1572 no. 51056.

economic rehabilitation than by the complexities of untangling the constitutional nuances of a policy they did not fully understand for lack of publicity. For the majority of the Chinese, many of whom were "uneducated and extremely parochial", constitutional niceties, as one officer from the Chinese Secretariat had earlier noted, "meant little or nothing to them, except where they affect their own personal affairs."<sup>25</sup> It was also not inconceivable, as the BMA suggested, that after years of suppression "the mood of the people was to be inarticulate."<sup>26</sup> Among the politically -conscious Chinese, however, the significance of the White Paper was not lost on them. Their reaction, however, depended on whether they originated from the Right, the Left or Centre. Observed the SEAC Director of Intelligence:

... it is not possible to quote any particular views as being representative of the Chinese community as a whole. Chinese opinion appears at present to be divided, one section favouring the proposed changes, another unenthusiastic and rather apathetic and a third hostile.<sup>27</sup>

The Chinese Right - comprising mainly China-born and pro-KMT elements - remained generally unenthusiastic about the White Paper. Their vision for post-war Malaya was one dominated by the Chinese - either, as Purcell put it, a "Malaya for the Chinese" or a "Malaya for China".<sup>28</sup> The issue of the Malayan Union Citizenship, therefore, became a significant stumbling block for them. Not comprehending the distinction between "nationality" and "citizenship" many Chinese assumed that the acceptance of the latter would automatically annul their Chinese nationality. As the Chung Hwa commented on 24 January: "Malaya is the second mother country [of the Chinese] ... If we want to have rights of citizenship in Malaya, we must either openly declare or quietly consent that we are separated from our mother country."<sup>29</sup> Few were

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25. Memo. by R.N. Broome, 1 Dec. 1945, WO 203/5302 no. 1249.

26. BMA Report for Jan. 1946, CO 537/1572 no. 51056.

27. Memo. by Guernsey, 19 Feb. 1946, WO 203/6203 no. 1375/1.

28. Purcell, "Malaya's Political Climate VI", 8 Jan. 1946, WO 203/5660 no. 1456/1.

29. See "Malayan Press Comment ...", CO 537/1536 no. 50823/6/4.

prepared to make such a definite break as the Malayan Security Service later observed:

... it appears to have been generally thought that acceptance of Malayan Union Citizenship would entail renunciation of Chinese nationality and this was regarded as ridiculous by the Chinese. If such renunciation had been necessary no Chinese would have thought of applying for Malayan citizenship unless it was necessary for business reasons, in which case some special arrangements would, they thought, have been made with the Chinese Government.<sup>30</sup>

This, remarked Purcell, typified the traditional Chinese attitude of having an insurance policy in both camps: "They would be perfectly content to enjoy the best of both worlds and countries."<sup>31</sup>

Concomitant with the issue of citizenship was the related question of the status of the Chinese vis-a-vis the Malay Rulers. Chinese chauvinists, on their part, had no desire to become subservient to the Malay Rulers and were concerned about the White Paper's retention of the latter as "traditional and spiritual leaders". Commented the Modern Daily on 24 January: "Those Sultans who took part in the 'Destroy England and America' movement - will they retain their 'special position as traditional and spiritual leaders?'" A similar view was expressed by the Chung Hwa on the same day: "The Sultans of the Malay States only represent their own individual interests. If they are retained in the Malayan Union the future of Democracy will be greatly affected: this fact, which was not brought up before was due to the ignorance of the contents of the White Paper."<sup>32</sup>

The preoccupation of the Chinese Right with the internal politics of the Chinese community had also dampened to a certain extent their enthusiasm on broader constitutional questions. Very few prominent Chinese business and community leaders had escaped the taint of co-operation with the Japanese. Discredited, they had "entirely lost their leadership of the Chinese community."<sup>33</sup> On the other hand, pre-war Chinese

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30. MSS/PIJ 30 Apr. 1946, p. 6.

31. Purcell, "Malaya's Political Climate VIII", 11 Mar. 1946, WO 203/5660 no. 1456/1.

32. "Malayan Press Comments ...", CO 537/1536 no. 50823/6/4.

33. Purcell, "Malaya's Political Climate I", 1 Oct. 1945, WO 203/5660 no. 1456/1.

Leaders who had returned to Malaya - for instance, China-born Tan Kah Kee and Rangoon-born Aw Boon Haw who resided in Java and Hong Kong respectively during the war - continued "their intriguing for the position of 'Leader of the Overseas Chinese'."<sup>34</sup> Insecure about their own positions especially when confronted by a strong challenge from the Left, and intrigue from within the Right, neither Tan nor Aw, remarked Purcell, "dares to take an independent stand" or make a "bold attempt to lead the Chinese community."<sup>35</sup> On wider constitutional issues, their attitudes remained, safely, pro-KMT. Referring to Tan Kah Kee, Purcell observed:

In politics he stands for the 'Chinese Overseas'.  
... He is therefore to an extent Kuomintang  
though he has quarrelled with them at times ...  
His attitude is [therefore] an obstacle to the  
Malayan Citizenship idea.<sup>36</sup>

The more vociferous reaction to the White Paper came from the Chinese Left. To some extent, the Malayan Union policy was not entirely irreconcilable with MCP ideals. Compared with the MCP's Eight Point manifesto<sup>37</sup> of 27 August 1945, the White Paper was unobjectionable except that it did not meet the MCP's demand for an elected "democratic government" and the right to vote for which the British had as yet no immediate plans. Like the White Paper, the MCP's orientation was also "Malayan" in focus. Not surprisingly, Purcell confidently predicted in October 1945: "The Union will go through without opposition or enthusiasm from the Left."<sup>38</sup> His prediction, as we shall see, proved premature.

By the end of January 1946 it was already apparent that the MCP had decided on a more combative policy towards the BMA.<sup>39</sup> The White Paper

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34. Purcell, "Malaya's Political Climate VIII", 11 Mar. 1946, *Ibid.* Tan, founder of the Nanyang Siang Pao, a leading Singapore daily, was chairman of the South Seas Chinese Relief Fund Federation and of the Overseas Chinese Mobilisation Committee. Aw, owner of the Sin Chiu Jit Poh, had business interests in Malaya, Hong Kong, Shanghai, Swatow and Foochow dealing with "Tiger Balm" products.

35. *Ibid.*

36. Purcell, "Malaya's Political Climate II", 20 Oct. 1945, WO 203/5302 no. 1249.

37. See Chapter 5, p.123.

38. Purcell, "Malaya's Political Climate II", 20 Oct. 1945, WO 203/5302 no. 1249.

39. See Cheah, pp. 248-249.

thus became an open target in the polemics of the propaganda battle to discredit the British. The BMA recorded this shift with concern in its February report: "Previous reaction of the Chinese to the proposals for the new Constitution has been one of apathy and lack of comment. Recently, however, strongly adverse criticism has appeared in the Communist press."<sup>40</sup> On 14 February, one day before the fourth anniversary of the fall of Singapore, the MCP issued its statement on the "Imperialistic White Paper".<sup>41</sup>

Typically, the MCP interpreted the separation of Singapore, and its retention as a Colony, as a move to keep Singapore as a strong military base and trading centre for the interests of imperialism. By controlling Singapore, Britain would then be in a commanding position to "virtually control Malaya and moreover control the whole Far East." The unrepresentative aspects of the Legislative and Executive Councils were similarly attacked. Even the sense of reform in the White Paper's citizenship provisions "embraces an ulterior motive" - an "implicit decoy" to detract attention from the unrepresentative nature of the White Paper. In themselves, the citizenship proposals were "without the counterpart of legitimate rights". Rejecting the White Paper, the MCP called instead for the adoption of its own "Democratic Principles" - the establishment of a "Pan-Malayan Unified Self-Government" with Singapore as the centre of control administratively and commercially; the formulation of a "democratic" constitution; the conferring of citizenship rights to all domiciled persons above eighteen years of age; and the granting of equal rights of vote, election and administration and equal opportunity to participate in social and economic reconstruction.<sup>42</sup> As British Intelligence saw it, the attack against the White Paper represented the first step in the MCP's "constitutional" strategy of agitating for a democratic government based on a wide franchise - "so that when elections are eventually held, it will be able to achieve a majority in any elected assembly."<sup>43</sup>

Only the Chinese Centre - represented by the moderate Chinese members of a newly formed multi-racial political party, the Malayan

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40. BMA Report for Feb. 1946, in CO 537/1572 no. 51056.

41. "The Malayan Communist Party's Statement on the Malayan Union", WO 203/6264 no. 1249.

42. Ibid.

43. HQ Malaya Command: Intelligence Summary, 23 Feb. 1946, CO 537/1581 no. 51133 Pt I.

Democratic Union (MDU) - generally welcomed the White Paper. Formed on 21 December 1945 by mainly English-educated middle class intellectuals with a programme that demanded self-government within the Commonwealth, a freely-elected Legislative Assembly, votes for all Malayan citizens above twenty one years of age, and complete equality in the employment of Malaysians, the MDU's objectives were not inimical to the principles espoused in the White Paper which it supported as a "progressive" document,<sup>44</sup> although making certain criticisms of detail. Apart from wanting to introduce representative reforms much faster than envisaged by the White Paper, the MDU also opposed the exclusion of Singapore from the Union and argued that its inclusion was essential for the "existence and well-being of Malaya" as well as for maintaining Singapore's cultural, economic and racial ties with the Mainland.<sup>45</sup> Nevertheless, the MDU was generally pro-Malayan Union. "[I]n the tenets and objectives of the Party", Purcell noted, "lay the hope of popular support for the aims of the Malayan Union."<sup>46</sup> In fact, the MDU remained supportive of the policy throughout 1946. Only in the face of continual rebuffs by the British to its representations and fear that the Malayan Union policy would be replaced by a Federation did the MDU in December 1946 take on a more uncompromising posture against the British constitutional plans for Malaya.<sup>47</sup>

### III

At a time when the Malay community felt vulnerable about its future, the publication of the White Paper could not have been more unfortunately timed. Whatever goodwill the Colonial Office might have hoped to muster disappeared overnight in a whirl of Malay accusations of betrayal and submergence. Its rationale improperly explained, the White Paper was seen by the Malays as confirming their worst fears. As the Colonial Office was to learn, the awakened Malay, his shyness conquered, soon lost his inclination to quietly acquiesce to a scheme which attacked his historical consciousness of Malaya as the land of

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44. Cheah Boon Kheng, "The Malayan Democratic Union, 1945-1948", M.A. thesis, University of Malaya, 1974, p. 329.

45. Ibid., p. 330.

46. Purcell, "Malaya's Political Climate VII", 7 Feb. 1946, WO 203/5660 no. 1456/1.

47. This will be discussed in more detail in Chapter 9.



the Malays.

In contrast with the general indifference of the non-Malay press, all the Malay papers published the Reuter report on the White Paper with the exception of only the Suara Raayat which printed a summary. The "fait accompli" was resented violently by the Malay press. As the Utusan Melayu, the leading Malay newspaper, bitterly commented on 24 January, the White Paper represented nothing less than a haughty "blow for the Malay rulers and their subjects". Not only had the Rulers, their functions now confined to looking after Islam, ignominiously descended "from the throne to the pulpit", but they had also, by implicitly sanctioning the citizenship proposals, seriously compromised the rights of their rakyat whose status now, added the influential Majlis, differed little from that "of the Red Indians in North America and the aborigines of Australia."<sup>48</sup> By the second week of February the Colonial Office found itself inundated with petitions, some from revived pre-war associations whilst others came from many new Malay organisations sprouted specifically to protest against the Malayan Union.<sup>49</sup> Their arguments, reflected in the lengthy petitions from the Kedah and Perlis Malay Associations, rehearsed familiar themes about Malay fears of submergence by doubtful aliens who never failed "to observe their national celebrations and [the] hoisting [of] their national flags."<sup>50</sup>

Confounded by the vigour of popular antagonism towards the Treaties which they had signed, the Rulers, on their part, soon found themselves irresistably impelled to reassess their original acquiescence to grant "full power and jurisdiction" to the Crown. Representations to the Colonial Office by both the Sultans of Kedah and Perak during the latter part of January and early February revealed two major areas of contention - the issue of sovereignty and the methods whereby the Treaties had been obtained.

For Sultan Aziz of Perak, the "real burden of his troubles" concerned the question of sovereignty. On receiving the White Paper the

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48. See "Malayan Press Comments ...", CO 537/1536 no. 50823/6/4.

49. For the internal politics of the Malay community, see A.J. Stockwell, British Policy and Malay Politics During the Malayan Union Experiment 1942-1948, (Kuala Lumpur, 1979), pp. 64-71.

50. Perlis Malay Association to Hall, 13 Feb. 1946, CO 537/1551 no. 50823/34/3. See also Kesatuan Melayu Kedah to Hone, 3 Feb. 1946, CO 537/1555 no. 50823/34/8.

Sultan had "suddenly flew off the handle" and became "very disturbed" at what he perceived was a blatant attempt by the Colonial Office to deprive him of his sovereignty.<sup>51</sup> To Aziz, this was unacceptable and on 30 January, one day after the Lord's debate on the Second Reading of the Straits Settlements (Repeal) Bill, he cabled his protests to both Lord Marchwood and Lord Elibank.<sup>52</sup> The day before, the Sultan of Kedah had also cabled his own protest to the Colonial Secretary, charging that the Agreements had been obtained "under duress."<sup>53</sup> Writing to Hone on 31 January, Badlishah again dissented with the White Paper's assertion that the Treaties had been amicably concluded "with friendliness and goodwill":

Nothing could be more preemptory and dictatorial than the attitude adopted by MacMichael ... in his 'negotiation' with me ... By no stretch of the imagination can the proceeding conducted under threat of non-recognition be called consultations conducted with friendliness and goodwill'.

Moreover, he had actually been "verbally presented with an ultimatum with a time limit. In the event of my refusing to sign the new Agreement, a successor, who would sign it, would be appointed."<sup>54</sup>

The "disturbing messages" from the Sultans greatly worried the BMA, distressed as it already was by the post-war economic problems and the communist-inspired political strikes. Learning from the acting SCAO that the Sultan of Perak was seriously contemplating abdication as a protest, Newboulth immediately flew to Ipoh to see Aziz on 4 February. Despite his efforts, Newboulth reported that he was unable to correct the Sultan's "pessimistic outlook": "He seems quite certain that the Malays are doomed, that the Chinese are on top, and foresees a long and bitter struggle." On a more favourable note, Newboulth reported that there was no indication of the Sultan's desire of wanting to abdicate, "So I think we can dismiss the bogey of abdication as a result of a mood of depression which ... had passed."<sup>55</sup> For the moment, Newboulth appreciated

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51. Newboulth to Lloyd, 4 Feb. 1946, CO 537/1554 no. 50823/34/7.

52. Aziz to Elibank, 30 Jan. 1946, Ibid. Both Marchwood and Elibank had taken part in an earlier debate on the new constitution for Malaya on the 19 Dec. 1946.

53. Badlishah to Hall, 29 Jan. 1946, CO 537/1555 no. 50823/34/8.

54. Badlishah to Hone, 31 Jan. 1946, Ibid.

55. Newboulth to Lloyd, 4 Feb. 1946, CO 537/1554 no. 50823/34/7.

that there was no need to be "unduly disturbed."<sup>56</sup> Fostered by their close friendship, Newbould believed he could keep the Sultan "on the rails."<sup>57</sup>

The following day, Hone had made his own way to Alor Star to interview the Sultan of Kedah about his "disturbing telegram". In their discussions, lasting some two and a half hours, the Sultan reiterated his charge of duress. To Hone's query as to why the Sultan had only recently registered his protest, having remained silent for two months, Badlishah explained that his own subjects were blaming him for signing and that political demonstrations by the Malays, previously unknown in his State, had been held. To a further inquiry by Hone, the Sultan remained non-committal about repudiating his signature, but hoped that the Colonial Secretary, on realising that he had been pressed into signing, would, on his part, invalidate the agreement. The Sultan, reported Hone, was "obviously far from well, suffering from insomnia, and is clearly worried." Like Newbould, Hone also appreciated that little action was necessary beyond recommending that the Sultan should await the arrival of the Governor before entering into discussions to allay his immediate anxieties.<sup>58</sup> Newbould, however, recommended that the right course would be to dismiss Badlishah's claim of duress altogether. The Sultan, he argued, had a history of being "obstinate and unreasonable".<sup>59</sup> In any case, MacMichael's record of the interview contained the "correct and unbiased account".<sup>60</sup>

The BMA's initial reaction to the outcry had thus been suitably circumspect. To be sure, there was little else the BMA could do as Newbould confided to Lloyd: "The sooner Civil Government starts tackling this political problem the better, because at the moment we are losing ground by not being able to speak authoritatively or open discussions with the people concerned."<sup>61</sup> While admitting that the British faced a propaganda problem ahead, Newbould nevertheless believed that there

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56. Newbould to Hall, 4 Feb. 1946, CO 537/1548 no. 50823/34.

57. Newbould to Lloyd, 4 Feb. 1946, CO 537/1554 no. 50823/34/7.

58. Hone to CO, 7 Feb. 1946, CO 537/1548 no. 50823/34 Pt I.

59. Newbould to Lloyd, 4 Feb. 1946, CO 537/1554 no. 50823/34/7.

60. Hone to CO, 7 Feb. 1946, CO 537/1548 no. 50823/34 Pt I.

61. Newbould to Lloyd, 7 Feb. 1946, Ibid.

was no cause to be unduly alarmed. Not all the Sultans were united in the opposition. When Hone asked the Sultan of Kelantan, for instance, if he was worried at the latest outcry, he "laughed and said no." The Sultan had earlier rebuffed an attempt by Badlishah to enlist his support in petitioning the Colonial Office. None of the other Sultans, apart from the Sultan of Johore, had petitioned London by the first week of February. For the moment, the BMA could therefore count on the "considerable divergence of opinion amongst the Sultans" to play to its advantage. As Newbould saw it:

It will be very interesting when we get all the Sultans together and see how much influence any one Sultan extends on the others. There is no doubt that Kedah and Perak will form one camp but how many we shall get in the more reasonable camp remains to be seen.<sup>62</sup>

Meanwhile, for both Lords Marchwood and Elibank, the telegrams received from Aziz made worrisome reading. Astonished, Lord Elibank warned Hall on 1 February that he would have to raise the matter in Parliament and recommend a postponement of the new constitution pending an investigation by a commission of inquiry.<sup>63</sup> Such a course would unduly prolong the termination of the military administration beyond its already revised deadline of 1 April.<sup>64</sup> To forestall the Lords, Hall invited a party of four Lords - Elibank, Marchwood, Swinton and Altrincham - for talks on 5 February. One major area of contention, as the Lords saw it, concerned the extent of the Governor's right of assent over religious matters. Though included essentially to grant the Governor ultimate discretion in cases of conflict with secular law, the provision of an infidel presiding over Mohammedan affairs was

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62. Ibid.

63. Elibank to Hall, 1 Feb. 1946, CO 537/1554 no. 50823/34/7.

64. The CO had been compelled to revise its original deadline (1 Mar. 1946) after Lord Cranborne pointed out in Parliament on 29 Jan. that Cmd 6724 gave no more than an outline of the policy and insisted that Parliament should be allowed to examine and comment on the Orders-in-Council in full in a new White Paper. As the drafting of the 3 Orders-in-Council - introducing the Malayan Union, the Colony of Singapore, and Malayan Union Citizenship - and the preparation of the new White Paper entailed a "very big job" the original deadline could not be met. See Gater to Sir Eric Speed, 4 Feb. 1946, CO 537/1528 no. 50823 Pt I.

repulsive to the Malays. The Lords therefore urged that "something more categorical" should be said to reassure the Malays that the Governor would only intervene in cases of conflict between secular and religious laws. For the moment, both Elibank and Marchwood agreed not to mention the Sultan's protest in Parliament. Looking ahead, Bourdillon favoured some form of accommodation. "If this can be done", he minuted, "I believe that we shall have no further difficulty from Lord Marchwood and Lord Elibank."<sup>65</sup>

The next day Hall informed the Lords that the matter was "not closed". The compromise he proposed required all bills, including religious legislation, passed by any Malay Advisory Council, to be first certified by the Attorney-General. If a bill was certified as relating solely to religious matters, and did not conflict with secular law, then it would solely be within the jurisdiction of the Sultans. Once certified, the bill would then be submitted to the Advisory Council of Malay Rulers and then to the Governor, as chairman of the Council, for his assent. There would, however, be incorporated in the Order-in-Council an instruction authorising the Governor not to withhold his assent to any bill which had been certified by the Attorney-General and approved by the Council of Rulers.<sup>66</sup> The concession satisfied the Lords who, consequently, made no mention of any specific cables received from Malaya during the committee stage of the debate in Parliament on 7 February.<sup>67</sup> The new concession was subsequently announced to Parliament during the Third Reading of the Bill on 12 February<sup>68</sup> and the BMA was instructed two days later to similarly inform the Rulers.<sup>69</sup>

During his meeting with the Lords on 5 February, Hall had also been questioned about the Sultan of Kedah's complaint of "duress" in a telegram to Marchwood a few days before. Disclosing his knowledge about the protest, Hall then invited Sir Harold MacMichael, then in attendance, to give a "full and graphic account" of his handling of the Malay Rulers. MacMichael's explanations evidently satisfied the Lords for "neither Lord Marchwood nor Lord Elibank said anymore about the Sultan

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65. Minute by Bourdillon, 5 Feb. 1946, CO 537/1554 no. 50823/34/7.

66. Hall to Swinton, 6 Feb. 1946, CO 537/1548 no. 50823/34.

67. Parliamentary Debates, H.L., 7 Feb. 1946, Col. 205-296.

68. Parliamentary Debates, H.L., 12 Feb. 1946, Col. 435.

69. Hall to BMA, 14 Feb. 1946, CO 537/1554 no. 50823/34/7.

of Kedah."<sup>70</sup> Hall's subsequent reply to Badlishah, which he cabled to Newboulton on 7 February, conceded nothing. Attesting his utter surprise at the Sultan's protest, Hall denied that MacMichael was guilty of employing strong-armed tactics and restated the assertion that the negotiations had been concluded "in the spirit of friendliness and goodwill."<sup>71</sup> There was little else Hall could do. Any implied criticism of MacMichael's methods would irresistably open up Pandora's Box and invariably prejudice the very basis of the MacMichael Treaties and HMG's jurisdiction over the Malay States.

On 20 February, Newboulton journeyed to Kuala Kangsar where he discussed Hall's latest telegrams with both Aziz and Badlishah. The Sultan of Kedah, whom Newboulton interviewed first, was "much worked up" and showing "signs of deep distrust" and Newboulton consequently failed to persuade him to withdraw his protest of duress. Badlishah confirmed, however, that he had no intention of repudiating his signature although he wanted to know whether his signature was still valid given that he considered he had signed under duress.<sup>72</sup> As he wrote to Newboulton three days later:

This word 'repudiate' is like a double-edged knife that cuts both ways. It conjures up in one's mind an agreement entered into with good faith and free will by two parties and then there is a refusal by one party to carry out the terms so contracted. This is not applicable to my case ... I would leave to the sense of justice and fair play of His Majesty's Parliament and the British public to decide whether the signature obtained under such circumstances had any validity.<sup>73</sup>

For Aziz, the latest British concession on religious matters was still inadequate. He emphasised that the Ruler, and not the Governor, should ultimately assent to bills which had been certified by the Attorney-General, as well as approve the composition of his own Malay Advisory Council.<sup>74</sup> For Aziz, the central issue was still sovereignty:

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70. Minute by Bourdillon, 5 Feb. 1946, Ibid.

71. Hall to BMA, 7 Feb. 1946, CO 537/1548 no. 50823/34 Pt I.

72. Newboulton to CO, 21 Feb. 1946, Ibid.

73. Badlishah to Newboulton, 23 Feb. 1946, CO 537/1555 no. 50823/34/8.

74. Newboulton to CO, 21 Feb. 1946, CO 537/1548 no. 50823/34 Pt I.

It is true that under the previous Treaties I was bound to accept the advice of the British Resident, but nevertheless I was a Sovereign in my State having power to assent or withhold assent to legislation. I am now invited to sit as a member at an Advisory Council with the Governor assuming the function which rightly belongs to me. Being a member of the Advisory Council with authority over the other States is a doubtful honour. I neither desire to have any influence over the other States nor welcome any other Ruler to have influence within my State.

The Sultan was further incensed that, under the proposals, the Malays in Perak would no longer swear allegiance to him but to the Malayan Union, thus in effect reducing him to the position of a Sultan without subjects: "All these facts tend to show that my sovereign rights are in real danger. You can well imagine my feelings. I have no status, no State and no subjects."<sup>75</sup>

By the latter half of February, it was apparent that the "considerable divergence of opinion" among the Rulers noted earlier by Newbould had crystallised into something more cohesive. Partly in response to the defence of their own rights, but largely succumbing to pressures from their own subjects, the Rulers had tactically rallied behind an informal united-front presided by the Sultans of Perak and Kedah. Two more Rulers - the Sultan of Kelantan<sup>76</sup> and the Raja of Perlis<sup>77</sup> - had formally submitted their petitions while others - like the Yam Tuan of Negri Sembilan<sup>78</sup> and the Sultan of Selangor<sup>79</sup> - wrote more informally through Lord Marchwood. By 22 February there was little doubt that the Rulers were more united than ever before. In a concerted display of solidarity, the Rulers of Perak, Kedah, Pahang, Selangor and Negri Sembilan jointly petitioned Hall to defer the implementation of the new constitution until an independent commission

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75. Aziz to Newbould, 20 Feb. 1946, Ibid.

76. BMA to Hall, 11 Feb. 1946, Ibid.

77. Syed Putera to Hall, 16 Feb. 1946, CO 537/1551 no. 50823/34/3. The Raja claimed that his subjects were in "protest" and that his signature had been "hastily" secured by MacMichael.

78. Abdul Rahman to Marchwood, 11 Feb. 1946, CO 537/1553 no. 50823/34/6. The Yam Tuan claimed "veiled" threats during his interview.

79. Alam Shah to Marchwood, 18 Feb. 1946, Maxwell Papers 1/4.

had first visited the country and consulted local opinion.<sup>80</sup>

#### IV

Meanwhile, in London, the Malay campaign against the Malayan Union had also stirred the interests of several prominent ex-MCS pensioners. Fortified by alarming telegrams from Malaya,<sup>81</sup> offended by the actual proposals, and traditionally distrustful of metropolitan interference in Malayan affairs, the Old Malaysans closed ranks in defence of their Malay friends and the memory of the Old Malaya they had served. Pensioners like Sir Frank Swettenham and Sir Richard Winstedt had already expressed their reservations about the new scheme after it was first announced in Parliament on 10 October 1945. "Does that mean annexation," the former had enquired in The Times on 26 October.<sup>82</sup> He then went on to argue that the pre-war administrative arrangements had served Malaya admirably well and structural change was therefore unwarranted.<sup>83</sup> Winstedt, on his part, feared that the policy would mean the "extinction of the Malay in political life" and objected to the methods employed to effect the scheme: "Having failed them in war, we rush them in peace."<sup>84</sup> After details of the new policy became known in January 1946, even Sir George Maxwell, who had initially welcomed the proposals as "full of promise and hope",<sup>85</sup> found himself compelled to denounce the new scheme altogether. Disappointed by the lacklustre performance of Marchwood and Elibank in Parliament, Maxwell took upon himself the task of mobilising the Old Malaysans to induce the Colonial Office to "take breath for a minute and think before it does irremediable mischief."<sup>86</sup>

Maxwell first gave expression to his altered views in his article "The Foreign Jurisdiction Act in Malaya" which he despatched to the Colonial Office on 29 January 1946 to coincide with the Second Reading

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80. Newbould to Hall, 22 Feb. 1946, CO 537/1548 no. 50823/34 Pt I.

81. See Badlishah to Swettenham, n.d., CO 273/676 no. 50823/35 and Badlishah to Winstedt, n.d., CO 537/1555 no. 50823/34/8.

82. The Times, 26 Oct. 1945.

83. Sir Frank Swettenham, "Administration in the Malay States", British Malaya, 20, (Nov. 1945), 220-222.

84. Straits Times, 15 Nov. 1945.

85. Straits Times, 14 Nov. 1945.

86. Maxwell to Swettenham, 14 Feb. 1946, Maxwell Papers 1/3. Maxwell served variously as British Adviser Kedah (1909-14); General Adviser Johore (1919); Resident, Perak (1919-20) and Chief Secretary (1920-6) before retiring in 1926.



of the Straits Settlements (Repeal) Bill in the House of Lords. In it, he argued that the "forcible application" of the Act was morally indefensible and a brutal affront to the Rulers and their States.<sup>87</sup>

Expanding his criticisms in two further memoranda on 13 and 14 February, Maxwell respectively attacked the new policy's two fundamental tenets - citizenship and union. In "Malayan Union Citizenship"<sup>88</sup> he savaged the White Paper's birth and residential criteria as "as automatic as a penny-in-the-slot-machine" and called for introduction of a countervailing "domicile" requirement as well as stringent tests to prohibit citizenship to subversive elements. In his following article - "Malayan Union: Amalgamation or Federation"<sup>89</sup> - Maxwell argued for an extended Federation of the nine Malay States and underlined that the alternative - Union - meant in practice the "degradation" of the Rulers and the gradual "detrribalisation" of the Malay community.

Like Maxwell, Sir Cecil Clementi had also been thinking along similar lines. In his memorandum - "Plan for Administrative Reconstruction in Malaya and Borneo" - which he despatched to Gater on 22 February,<sup>90</sup> Clementi harped back to his earlier scheme of a Federation of the nine Malay States which would eventually also include the Straits Settlements to form a Malayan Union. Singapore should not be omitted from the Federation because of its commercial importance and authority should be reinvested in the Ruler and his State Council. Admission to citizenship should be made a privilege and not a right. Birth alone was insufficient unless one parent was born in Malaya or had been admitted to Malayan citizenship. Like Maxwell, Clementi also favoured a "domicile" requirement in addition to continuous residence for at least ten years in the Malay States.

The Colonial Office, on its part, saw little wisdom in standing still. In its estimation, the counter-proposals of the pensioners were scarcely helpful. The attitude of Winstedt, for instance, apart from affording "fruitful soil"<sup>91</sup> for Malay propaganda, was perceived by

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87. Maxwell to CO, 29 Jan. 1946, Ibid.

88. Maxwell to CO, 13 Feb. 1946, Ibid.

89. Maxwell to CO, 14 Feb. 1946, Ibid.

90. Clementi to Gater, 22 Feb. 1946, CO 273/676 no. 50823/35.

91. Minute by Bourdillon, 23 Feb. 1946, CO 537/1528 no. 50823 Pt I.

Bourdillon as "entirely unconstructive".<sup>92</sup> As for Swettenham, Bourdillon surmised that his tendency was indeed to "harp back to the past and fail to appreciate the necessity for political change." Even Maxwell had clearly "misunderstood the policy and greatly over-estimated its dangers."<sup>93</sup> Thus, as Bourdillon saw it, "No alternative is offered to the new policy, and in fact no alternative exists." A Federation along the lines proposed by Maxwell would leave the racial problems unresolved. The Rulers, though federated, would remain independent Monarchs and there would be no more likelihood that they would accept Chinese and Indians as their subjects than in the past. There was also no indication that the Federation proposed would ever materialise: "All past evidence tends to show that the Rulers, once entrenched in their previous positions, would reject the idea." Once the old system was permitted to reassert itself, "change would become far more difficult and far more painful, if not impossible." Even if it was possible to stand still, events would not: "The claims of Chinese and Indians, supported by the Chinese and Indian Governments, will become increasingly strong and increasingly impossible to resist. The position whereby half the population of the country are denied political rights will become increasingly untenable."<sup>94</sup>

Certainly, the Colonial Office was also aware that much could be found in its new scheme that was agreeable to other ex-Malayans like Sir Shenton Thomas and pre-war Federal non-official councillors like E.D. Shearn and Egmont Hake. In a memorandum compiled during his internment and subsequently communicated to the Colonial Office after his release from gaol in September 1945, Thomas, for instance, argued for a closer political union with both Singapore and the Malay Peninsula administered under a Governor along the lines of the "Colony and Protectorate" model<sup>95</sup> - a plan which, as Bourdillon was quick to observe, would "definitely imply the cession of jurisdiction to His Majesty by the Rulers."<sup>96</sup> Like Thomas, Shearn during his internment in Java had also drafted a memorandum on post-war constitutional arrangements in Malaya and Borneo and, like him, had also concluded that the solution

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92. Minute by Bourdillon, 20 Feb. 1946, CO 273/676 no. 50823/35.

93. Ibid.

94. Ibid.

95. Memo. by Thomas, 29 Feb. 1944, CO 273/677 no. 50984.

96. Bourdillon to Paskin, 20 Feb. 1946, CO 273/676 no. 50823/35.

was to be found in the formation of a Malayan Union comprising the Malay States and the Straits Settlements as a single unit. The Colonial Office's proposals were therefore "not novel" and had his "unqualified support": "To me it was and is obvious that the reforms had to be introduced immediately after the military interregnum and that it would have been folly to have introduced temporarily the old system only to have completely reorganized it after it had been at work for some brief period."<sup>97</sup>

On balance, the Colonial Office did not assess the opposition from the pro-Malay Old Malaysans as a threat that warranted serious attention. They had shown themselves devoid of credible proposals and the Colonial Office in the meantime could still count on the divisions within their ranks to play to its tactical advantage. But partly to mollify criticisms from the House of Lords that the views of distinguished ex-Malayans had not been consulted,<sup>98</sup> partly out of courtesy to the latter, Hall decided to invite these prominent Malaysans to a discussion at the Colonial Office on 22 February. The initial names suggested by Lord Marchwood included Sir Laurence Guillemard (Governor and High Commissioner, 1919-1927), Sir Andrew Caldecott (Chief Secretary, 1931-1933, and Colonial Secretary, 1933-1935), Winstedt, Clementi, Swettenham and Maxwell. To counter-balance the pro-Malay camp, Gent, however, favoured broadening the party to include other representatives more sympathetic to the Colonial Office's own policy. The revised list, which Hall accepted, included Thomas, Shearn and Hake.<sup>99</sup> At the last minute two others - A.S. Haynes (pre-war non-official councillor) and L.D. Gammans (Unionist MP for Hornsey) - were added to complete the list. Judging from the views they had hitherto expressed, the Colonial Office assessed that the "unofficials" like Hake and Shearn could be expected to support the policy and some of the "officials" like Thomas and Caldecott, at the lowest estimate, were likely to "recognise its merits". Guillemard and Gammans had not expressed any views thus far although it was thought that Haynes' sympathies were strongly pro-Malay and could be expected to criticise the policy.<sup>100</sup> On the whole, the Colonial Office expected to come out of the discussion

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97. Shearn to Hall, 19 Feb. 1946, *Ibid.*

98. See Parliamentary Debates, H.L., 7 Feb. 1946, Cols. 295-297.

99. Paskin to Lloyd, 15 Feb. 1946, CO 273/676 no. 50823/35. Hake's views were recorded in his book - *The New Malaya and You*, (London, 1945) - which supported the Colonial Office's position.

100. Bourdillon to Paskin, 20 Feb. 1946, CO 273/676 no. 50823/35.

looking well.

To strengthen its hand at the meeting the Colonial Office had also been contemplating the possibility of granting a further concession regarding the ultimate control of religious matters by Governor. This arose from a discussion between Gent and Sir Andrew Caldecott on 14 February in which the latter strongly urged the Colonial Office to go further and relinquish even nominal "assent" by the Governor over legislation on religious matters since the previous concession was insufficient to meet fundamental Malay objection of submitting to "infidel" assent.<sup>101</sup> The matter was subsequently considered and accepted by Gent, Lloyd, Paskin, Bourdillon and O'Connor on 20 February.<sup>102</sup>

Taken ill by a bad chill, Hall was forced to reschedule the meeting to Tuesday, 26 February. The postponement of the talks at the last moment immediately led Swettenham to speculate that the Secretary of State was perhaps "gun-shy" at the prospect of their encounter.<sup>103</sup> Maxwell, similarly informed by Marchwood that Hall was "scared stiff" at the likelihood of another "Indonesian" problem rearing its head in Malaya, gleefully advised: "We must do all we can to frighten him."<sup>104</sup> A few days before, writing separately to both The Times and to Gammans, Maxwell had already alluded to the possibility of the Security Council of the United Nations, intervening on behalf of the Malay States, having the "final decision" over HMG.<sup>105</sup> Maxwell's threats were icily deprecated by Bourdillon as "quite out of line with the facts." Under international law, the Malay States were "merely parts of the British Empire" and could not oblige the Security Council to intervene on their behalf.<sup>106</sup> Given the facts of the matter, Maxwell's efforts to internationalise the problem served only to confirm, in the Colonial Office's mind, the image of him as a frivolous, noisy and "very mischievous"<sup>107</sup> trouble-maker who would go to "impossible lengths"<sup>108</sup> in order to foment opposition to the new policy. As Gater stiffly bristled: "It is a most

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101. Gent to Lloyd, 15 Feb. 1946, CO 537/1554 no. 50823/34/7.

102. Minute by Bourdillon, 21 Feb. 1946, Ibid.

103. Swettenham to Maxwell, 22 Feb. 1946, Maxwell Papers I/5.

104. Memo. by Maxwell, 23 Feb. 1946, Ibid.

105. Maxwell to The Times, 18 Feb. 1946, CO 273/676 no. 50823/35.

106. Bourdillon to Paskin, 23 Feb. 1946, Ibid.

107. Gater to Creech-Jones, 25 Feb. 1946, Ibid.

108. Minute by Paskin, 23 Feb. 1946, Ibid.

unscrupulous proceeding on his part."<sup>109</sup>

Predictably, the confrontation on 26 February yielded no significant results. Urged on by Maxwell, the inherent problems of forwarding an agreed set of counter-proposals were deftly avoided altogether,<sup>110</sup> and Clementi, Swettenham, Winstedt, Haynes and Gammans concentrated instead on the more immediate task of persuading the Colonial Office to accept a moratorium on the implementation of the new policy. As Haynes succinctly argued: "Morally it is wrong, politically it is unwise, legally it is unconstitutional, historically it will be condemned."<sup>111</sup> Given its already unfavourable impression of the ex-Malayans, the Colonial Office remained unmoved. Although tactically weakened by the absence of three out of its four anticipated supporters - only Hake was present while Thomas, Shearn and Caldecott were not available - the Colonial Office was nevertheless still able to maintain its tactical initiative - negatively, by its opponents' inability to forward fresh proposals, and, positively, by Lloyd's announcement of the new concession on religious matters. As Maxwell admitted later, the discussion had been "futile."<sup>112</sup> By agreeing to the meeting, the ex-Malayans had effectively played into the Colonial Office's hands. As Swettenham had earlier forewarned, HMG could now claim that "we had been consulted!"<sup>113</sup>

## V

By March the positions of both the opponents and proponents of the new policy had hardened conspicuously. Although bestirred by the January White Paper, Malay reaction throughout February had nevertheless remained politely deferential, if not cautiously conciliatory: it was then generally believed that the Malayan Union proposals were "still in the blueprint stage"<sup>114</sup> and that ultimately British good sense and justice would prevail and the scheme would not be introduced.<sup>115</sup> By early March, however, confronted by continual Colonial Office intractability

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109. Gater to Creech-Jones, 25 Feb. 1946, Ibid.

110. Clementi and Winstedt wanted to recommend counter-proposals but were discouraged by Maxwell who argued that "the rejoinder from the CO would be that we are doing exactly what we object to in the White Paper, namely, putting forward a programme without consulting the Rulers and the people." Memo. by Maxwell, n.d., Maxwell Papers I/5.

111. Haynes to Hall, 2 Mar. 1946, CO 273/676 no. 50823/35 enclosing remarks made at the discussion on 26 Feb. 1946.

112. Maxwell to Simmons, 7 Mar. 1946, Maxwell Papers I/3.

113. Swettenham to Maxwell, 13 Feb. 1946, Ibid.

114. See Seruan Raayat, 25 Jan. 1946, in "Malayan Press Comments ...", CO 537/1536 no. 50823/6/4.

over fundamental Malay demands, and at the same time emboldened by the emergence of a new sense of unity and assertiveness within the Malay community, Malay reaction shifted perceptively from polite protest to active resistance. If HMG would not repudiate the Treaties, neither would the Malays hold them as sacrosanct. Consequently, on 1 March, delegates at the first Pan-Malayan Malay Congress resolved as "null and void" the MacMichael Treaties and called on HMG to restore the status quo "with no change whatever for the present."<sup>116</sup> The Rulers who were previously uncommitted had also changed their minds. On 3 March the Sultan of Trengganu voiced his first reaction to the White Paper and called for the "just treatment" of both the sovereignty and citizenship issues.<sup>117</sup> Two days later, the Sultan of Johore informed Gater that he could "no longer defer making my position clear" and declared that he could not maintain his previous unqualified approval of the Malayan Union Policy.<sup>118</sup>

By March the London opponents of the Malayan Union had also been impelled to intensify their campaign against the new policy. Until then, although the Old Malaysans attacked the White Paper, their criticisms generally had been guardedly circumspect since their initial objective had only been limited to forcing the Colonial Office to delay the implementation of the new scheme. Marchwood, for instance, was loth to embarrass the Colonial Secretary whom he described as "a good fellow and I should hate to see him make the scapegoat of a half-baked scheme which is being foisted upon him, I fancy, by official

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115. Badlishah, for instance, believed that his petition would deserve the "kind, sincere and sympathetic" consideration of the British Cabinet since, as he put it, "Having lived in England for 9 years, I was convinced that this action was contrary to the traditional British justice and fair play." Badlishah to Hall, 11 Feb. 1946, CO 537/1555 no. 50823/34/8.

116. BMA to Hall, 5 Mar. 1946, CO 537/1548 no. 50823/34 Pt I. The idea of a Pan-Malayan Congress had been made by Johore aristocrat, Dato Onn bin Jaafar, on 24 Jan. 1946. When it was eventually convened on 1 Mar. 1946 it was enthusiastically supported by some 41 Malay associations. Apart from the objective of unifying the Malays against the Union, its other goal had been to decide on the organisation of an effective Malay national movement which would provide the institutional structure for the struggle. This was achieved by the formation of the United Malays National Organisation (UMNO) at the conference. See Stockwell, pp. 69-70.

117. Ismail to Newbould, 3 Mar. 1946, CO 537/1552 no. 50823/34/4.

118. Ibrahim to Gater, 5 Mar. 1946, CO 537/1550 no. 50823/34/1.

enthusiasts!"<sup>119</sup> Even Maxwell was initially convinced that Hall "seems to be the dupe of some unbalanced and unscrupulous person in his office."<sup>120</sup> But after their encounter on 26 February, Maxwell perceived the situation as "desperate" given Hall's determination to force the Bill through to its logical conclusion in the House of Commons.<sup>121</sup> Writing to Gammans, Maxwell urged him to lead "the fight for the right" and to press for a division without which the Malays "are likely to feel that they have been let down."<sup>122</sup>

Maxwell reckoned in the meantime that the only way to stop the Bill being passed in Parliament was by contesting the constitutional basis of the MacMichael Treaties themselves: if it could be shown that the Treaties were invalid, then the Colonial Office's case would "collapse like a house built with playing cards."<sup>123</sup> Johore, as Maxwell saw it, afforded an opportune "test case" since it had a constitution that required the Sultan to consult his Council of State before making an agreement with a foreign power. Maxwell subsequently contacted the Sultan's solicitors (E.F. Turner and Sons),<sup>124</sup> his Private Secretary (Herbert Welham)<sup>125</sup> and Lord Marchwood<sup>126</sup> with a view to persuading Ibrahim to take up legal proceedings to challenge the validity of the Johore Treaty. Turner, however, replied somewhat morosely on 11 March that he had little influence over the Sultan who treated him as "little more than a Post Office".<sup>127</sup> Marchwood, on his part, also demurred, fearing that Maxwell was "forcing the pace" too quickly.<sup>128</sup> Maxwell, however, was unimpressed and threatened that unless the Sultan "see the situation as I see it myself" he would have to "bully Ibrahim" by advising his "old friend", Dato Onn, whom he knew when he was General Adviser, to consult the best solicitors in

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119. Marchwood to Maxwell, 18 Feb. 1946, Maxwell Papers I/3.

120. Maxwell to Swettenham, 23 Feb. 1946, Maxwell Papers I/5.

121. Maxwell to Marchwood, 3 Mar. 1946, Maxwell Papers I/4.

122. Maxwell to Gammans, 6 Mar. 1946, Maxwell Papers I/3.

123. Maxwell to Robert Turner, 9 Mar. 1946, Maxwell Papers I/4.

124. Maxwell to Turner, 1 Mar. 1946, 6 Mar. 1946 and 9 Mar. 1946, Ibid.

125. Maxwell to Marchwood, 8 Mar. 1946, copy to Welham, Ibid.

126. Maxwell to Marchwood, 3 Mar. 1946, and 8 Mar. 1946, Ibid.

127. Turner to Maxwell, 11 Mar. 1946, Ibid.

128. Marchwood to Maxwell, 6 Mar. 1946, Ibid.

Singapore to obtain legal opinion concerning the validity of the Treaty. This action, he warned, would inevitably cast both Ibrahim and MacMichael as "fellow conspirators."<sup>129</sup> Thus pressed, Marchwood and Welham subsequently interviewed Ibrahim on 11 March. The question of engaging legal counsel had also been broached by Badlishah two days before when he enquired whether Ibrahim was prepared to share the legal cost of the undertaking with the other Rulers.<sup>130</sup> The latter initiative greatly simplified Ibrahim's dilemma as it obviated the necessity of taking separate legal action. After discussing the issue with Marchwood and Welham, Ibrahim subsequently informed Gater that in order to "simplify the position for all concerned" he had acceded to the Rulers' request on sharing the legal expense of challenging the constitutionality of HMG's policy.<sup>131</sup>

While admitting a fairly "substantial" Malay revulsion against the White Paper, the Colonial Office by late February-March, on its part, had also decided that there could be "no question" of HMG withdrawing from the fundamental policy already outlined. However, to deal with the Malay opposition, the Colonial Office on 25 February forwarded two alternative courses for urgent consideration. The first, strongly supported by Gent, urged that HMG should recommend the immediate implementation of the new scheme despite strong objections from the Malays. Any indication that HMG was withdrawing the political rights already held out to the non-Malays, Gent argued, would arouse a "far more dangerous antagonism" from the Chinese, and to a lesser extent the Indians, who between them outnumbered the Malays. The second alternative was to proceed, as already planned, with all other aspects of the policy but deferring the implementation of the citizenship proposals for six months pending further local consultations.<sup>132</sup> Such a proposal had been made by Hone and Newbould<sup>133</sup> a few days before and, as Bourdillon elaborated, was based on the assumption that, in almost all the popular reactions against the White Paper, it was citizenship which was attacked; the surrender of jurisdiction by the Sultans and the creation of the Malayan Union were not the subject of deep Malay protest. Some

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129. Maxwell to Marchwood, 8 Mar. 1946, Ibid.

130. Badlishah to Ibrahim, 9 Mar. 1946, CO 537/1550 no. 50823/34/1.

131. Ibrahim to Gater, 11 Mar. 1946, Ibid.

132. Minute by Bourdillon, 25 Feb. 1946, CO 537/1528 no. 50823 Pt I.

133. Hone to CO, 23 Feb. 1946, Ibid.



accommodation of the Malays on the question of citizenship might therefore be expedient. Otherwise, as Hone warned, "we stand to lose much good will ... by being too precipitate."<sup>134</sup> No decision was reached at the meeting and Bourdillon was instructed to prepare a memorandum, setting out the two views, for reference to the Cabinet.<sup>135</sup>

Hall's own recommendation favoured the former course. As HMG had already announced its intentions clearly in the White Paper, he argued, it was inadvisable to appear uncertain of its own policy before world or Malayan opinion since this would not only make the task of the Civil Government even more difficult,<sup>136</sup> but it might also precipitate racial discord during the six months when opposing points of views would be canvassed throughout Malaya.<sup>137</sup> Looking ahead to the Commons debate on 8 March, Hall proposed that the second course might be adopted as a tactical compromise if the opposition to the policy were strongly pressed in Parliament. This was agreeable to the Cabinet which authorised on 28 February that HMG should proceed as planned with the implementation of the new policy.<sup>138</sup> The BMA was consequently informed later that day to initiate effective publicity to thwart the intensification of Malay opposition by focussing on three possible themes: Malays must not rely indefinitely on British protection to maintain them in a position of privilege; they must realise that the world had changed fundamentally and isolated communities of Malay States had no hope for the future; and Malays must accept the principle of common citizenship.<sup>139</sup>

Responding to an earlier inquiry by Hall,<sup>140</sup> the BMA replied on 3 March that there would be no adverse reaction to the postponement of the citizenship proposals provided it was made clear that no final decision would be taken pending local consultations. In a fresh appraisal two days later, the BMA reiterated that citizenship was the "chief bone of contention" and repeated, by implication, its earlier entreaty that the Citizenship Order-in-Council should be deferred:

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134. Hone to CO, 23 Feb. 1946, Ibid.

135. CAB 129/7 CP (46) 81.

136. Ibid.

137. CO to BMA, 28 Feb. 1946, CO 537/1528 no. 50823 Pt I.

138. CAB 128/5 CM (46) 19.

139. CO to BMA, 28 Feb. 1946, CO 537/1528 no. 50823 Pt I.

140. Hall to BMA, 26 Feb. 1946, Ibid.

Majority of Government servants, including Police, are Malays and we are very dependent upon retention of their goodwill ... We can only implement new policy successfully with co-operation of Malays, which we have not at present got ...<sup>141</sup>

These arguments appeared "particularly cogent" to Bourdillon who urged for more flexibility on this issue.<sup>142</sup> Lloyd agreed. As the expected "violence of Chinese and Indian reaction" seemed unfounded, it was "easier to make concessions on this point should the course of the debate make that advisable."<sup>143</sup>

As it turned out, such a concession was necessary. Although the latest concessions on religious and citizenship matters were announced in a new White Paper<sup>144</sup> on 4 March, it was evident during the course of the Commons debate that these were insufficient to pacify the Opposition. Opening the debate for the latter, Gammans, for instance, read out letters from five Rulers which were heard in "deadly silence".<sup>145</sup> Should HMG decide to press ahead with its scheme, Gammans warned, it would then be "guilty of the blackest charge which can be levelled against any British Government - the charge of broken faith."<sup>146</sup> The former Colonial Secretary, Oliver Stanley, winding up for the Opposition, urged the Colonial Office to implement only those parts of the Orders-in-Council which were absolutely necessary for the re-establishment of civil Government. On those where doubts still lingered - such as the

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141. BMA to Hall, 5 Mar. 1946, CO 537/1548 no. 50823/34 Pt I.

142. Minute by Bourdillon, 6 Mar. 1946, *Ibid.*

143. Minute by Lloyd, 6 Mar. 1946, CO 537/1528 no. 50823 Pt I.

144. Malayan Union and Singapore: Summary of Proposed Constitutional Arrangements, Cmd. 6749, (Mar. 1946). The Governor's assent to religious Bills would no longer be required. It was now for the renamed Council of Sultans to satisfy themselves that the Bill had been certified by the Attorney-General as a suitable one for the Sultan or Sultans to enact. The appointment of members to the Malay Advisory Council in each State would also be the prerogative of the Ruler and not be subject to the Governor's approval. On citizenship, birth as a qualification was modified to require persons born in the Union or Singapore to be also ordinarily resident in these territories on the day in which the Order came into force. The naturalisation provisions were also tightened to include residential, language, character, and intention of domicile requirements. Admission would be confined to individual cases, each of which would be carefully scrutinised, with the final decision resting with the Governor.

145. J. de V. Allen, The Malayan Union, (New Haven, 1967), p. 38.

146. Parliamentary Debates, H.C., 8 Mar. 1946, Col. 665.

position of the Sultans, citizenship, local Government - Stanley recommended a moratorium of some six months until the Governor-General and the Governor of the Malayan Union had been able to undertake local consultations.<sup>147</sup> In his reply, Creech-Jones, deputising for Hall who was taken ill, undertook not to proceed with the Malayan Union Citizenship Order-in-Council pending local consultations. He reaffirmed, however, that there could be no "whittling down" of the principle of common citizenship:

We cannot conceive of any forward advance unless that principle is acknowledged ... The House should be under no illusion that the British Government must push on with this policy.<sup>148</sup>

But partly to meet Stanley's points, a new package of concessions was announced by Creech-Jones during the Third Reading of the Straits Settlements (Repeal) Bill on 18 March, allowing the Council of Sultans, apart from exercising its religious functions, to discuss secular issues without the Governor's prior consent, empowering the Malay Advisory Councils to advise the Rulers also on secular issues, and recommending that a nominee of the Sultan should sit on the State Council to keep the Ruler abreast of State proceedings. Creech-Jones, however, resisted Stanley's call for the excision of all detailed provisions from the Orders-in-Council but agreed to hold "in reserve", pending local consultations, details about the exact composition of the Legislative Council and the functions and constitution of the State and Settlement Councils. The Malayan Union and Singapore Orders-in-Council, in the meantime, would be implemented in full as they provided the essential "framework" for the new constitutions. This compromise was generally accepted by the Opposition and the Bill was passed without any division.<sup>149</sup>

The latest concessions, however, failed to allay Malay anxieties. On 25 March, the Rulers of Perak, Selangor, Negri Sembilan and Kedah urged Hall to agree to a delay of six months in the hope that HMG could be persuaded, in the meantime, to consider their offer of a Federation.<sup>150</sup> Legal advice to challenge the legality of the Union had also been sought.

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147. Ibid., Col. 718.

148. Ibid., Col. 727.

149. Ibid., 18 Mar. 1946, Col. 1565.

150. Newbould to Gater, 27 Mar. 1946, CO 537/1554 no. 50823/34/7.

On 26 March, the Rulers' newly engaged legal counsel, John Foster,<sup>151</sup> informed Paskin and Roberts-Wray, the Colonial Office's legal adviser, that he would be advising the Rulers to repudiate their signatures to the Treaties. This, he felt, would place HMG under a moral obligation to regard the Agreements as null and void. To Foster's assertion that a party to an agreement had a right to repudiate it on the grounds that it was politically unwise, Roberts-Wray retorted that this was indeed a "novel sort of doctrine" which amounted to saying that "international law is not law at all". Unless duress could be proved, the sanctity of treaties was recognised under international law. Cancelling the arrangements already made at this late stage, the Colonial Office argued, would be a "physical impossibility" and no useful purpose could be served by the repudiation of the Rulers' signatures.<sup>152</sup> Foster, however, was unpersuaded and on 30 March the Sultan of Perak informed Hall on behalf of all the Rulers that they could not recognise the Agreements as "effective".<sup>153</sup> For Gent - now Sir Edward Gent - this was indeed not a propitious start to his new designation as the Governor of the Malayan Union.<sup>154</sup>

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151. Foster was lecturer in private international law, Oxford, from 1934-1939 after which he served as first secretary in the British Embassy in Washington until 1945.

152. Minute by Roberts-Wray, 27 Mar. 1946, CO 537/1548 no. 50823/34 Pt I.

153. Aziz to Hall, 30 Mar. 1946, Ibid.

154. According to Stockwell, Gent's appointment as Governor surprised the Eastern Department. Gent himself expected the post to go to Sir Arthur Richards (Governor of Jamaica, 1938-1943, and of Nigeria, 1943-1947). See Stockwell, pp. 70-71.

## CHAPTER SEVEN

## CONSTITUTIONAL NEGOTIATIONS: APRIL TO JULY 1946

This situation threatened at one time to become extremely dangerous, with the prospect of the Malays, united as never before, pursuing a policy of wholesale non-cooperation which might at any moment have degenerated into actual violence.

A. Creech-Jones, 29 November 1946.

## I

Presented with the fait accompli of the Malayan Union, the Colonial Office had hoped that the Malays would eventually be persuaded of the necessity, if not wisdom, of agreeing to bilateral consultations. Shortly after his arrival in Malaya on the afternoon of 29 March 1946, Gent, as Governor-designate, accordingly met the Rulers for informal discussions. Informed of their intention to boycott his installation ceremony on 1 April, Gent reminded the Rulers on 31 March that this would invariably be interpreted by Whitehall as a discourteous act by Their Highnesses and that, apart from the principle of Union which must be maintained, there was still ample room for the fullest consultation on the details of the new constitution still to be decided that would serve Malay interests no less than those of Malaya. Replying for the Rulers, Sultan Aziz emphasised that no disrespect was intended; they nevertheless could not tacitly assent to the Union proposals which compromised their prestige and position as sovereign Rulers. After adjourning for discussions amongst themselves, the Sultans returned at 11.30 p.m., regretfully informing Gent that they were unable to vary their original decision to boycott his inauguration: they could accept Federation but not Union.<sup>1</sup>

Although disappointed, the Colonial Office, nevertheless, refused to be deterred; Hall, subsequently, cabled Gent later that day with this uncompromising reply for immediate despatch to the Rulers: there were "no circumstances" which would justify the Sultans in refusing to

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1 Gent to Hall, 1 Apr. 1946, CO 537/1548 no. 50823/34 Pt I.

recognise the MacMichael Agreements as binding; he could not admit the right of one party to withdraw from engagements "solemnly entered into"; the new policy had been approved by Parliament and implemented by Order-in-Council; there could therefore be no question of that policy being abandoned in favour of federation.<sup>2</sup> The following evening Gent cabled Hall a cautiously optimistic report: although the Rulers had boycotted his installation and avoided all official contact throughout the day, they had nevertheless made a welcome "gesture" by calling on him that evening partly to say good-bye and to extend to him personal invitations to visit their States. Of more relevance were his conversations with the Sultan of Perak and the Yam Tuan of Negri Sembilan who gave him the impression "that, as soon as your reply was received definitely disposing of the question of Union versus Federation, we might hope to make headway with matters as to constitutional provisions necessary to satisfy their feelings and ensure their position."<sup>3</sup> This led Gent to surmise that the Rulers were perhaps not as intransigent as their public stance had made them out to be; given UMNO's influence over the Malays, they probably had no choice: to carry the popular favour they were in danger of losing, the Rulers had to be seen to be opposing Union.<sup>4</sup>

The Colonial Office was gratified with the encouraging report, with Bourdillon observing that, thus far, the Rulers had still not made public their repudiation of the MacMichael Agreements and it was therefore possible that they might have decided not to maintain this position. The only problem, as he saw it, was that UMNO, had "come right out against Union as such, and have even been intimidating the Sultans." Dato Onn, UMNO's leader, Bourdillon added, was known to be a "very ambitious man."<sup>5</sup> Looking ahead, Creech-Jones, however, argued that the development of some organised Malay opinion "was to be expected" and "need not be bad if it is handled now with understanding and discretion." He counselled that the sooner consultations began to revive the stalled negotiations to establish the machinery of the Malayan Union the better it would be for everybody: "The Malays need to know that they are 'lost' in a measurable time unless British policy is broadly accepted."<sup>6</sup>

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2. Hall to Gent, 1 Apr. 1946, Ibid.

3. Gent to Hall, 2 Apr. 1946, Ibid.

4. Ibid.

5. Minute by Bourdillon, 5 Apr. 1946, Ibid.

6. Minute by Creech Jones, 8 Apr. 1946, Ibid.

Any boycott of the new constitution by the Malays would indeed be politically regrettable. "It would be a thousand pities", Hall confessed, "if Malays do not play their full share in discussions designed to fill in details of new constitutional arrangements."<sup>7</sup>

To break the impasse Gent on 9 April suggested to Hall the possibility of enlisting the support of the moderate Sultan Ibrahim of Johore in London. If the latter could be induced to recognise the Malayan Union as a fait accompli, a message from him to the other Rulers advising them that consultations should commence, "could not fail to carry weight."<sup>8</sup> Hall, who accordingly took up the matter with Ibrahim on 12 April, was not hopeful. The Sultan, he recalled, was unfortunately accompanied by John Foster, his legal adviser, who "did practically all the talking on their side." Foster re-emphasised that the Sultans would only agree to consultations on condition that the Colonial Office accepted "modifications" in the direction of "Federation" and the preservation of the formal attributes of sovereignty of the Rulers. In a few minutes' conversation with Ibrahim, while Foster was leaving by another door, Hall gathered the impression that the Sultan would have been ready to co-operate but for the "strong influence of others (unspecified)". "I am afraid," he telegraphed Gent, "I am not very sanguine that Sultan will have strength of character sufficient to resist these influences and to cooperate."<sup>9</sup> Hall's judgement was borne out four days later when Ibrahim wrote him a personal note expressing his inability to be "false to my people" and to sanction a scheme "objectionable to every Malay."<sup>10</sup>

Throughout his discussions with his advisers, Gent, in the meantime, had also concluded that some "minimum adjustments" were imperative to secure the acquiescence of the Sultans. These, he suggested, might take the form of associating the Sultans with the State legislatures by granting them a purely formal role of "concurring" all State enactments. To avoid the risk of serious objection by Malay State councillors to swearing an oath of allegiance to the Crown, Gent further recommended that a return to the pre-war practice of "affirmation"

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7. Hall to Gent, 12 Apr. 1946, Ibid.

8. Gent to Hall, 9 Apr. 1946, Ibid.

9. Hall to Gent, 12 Apr. 1946, Ibid.

10. Ibrahim to Hall, 16 Apr. 1946, Ibid.

would suffice.<sup>11</sup> Given that local consultation had made little headway, and that the details of the State legislatures were, as yet, undetermined, the Colonial Office was only too mindful of the need to tread with caution, preferring that "no encouragement be given to Sultans to believe that basic conception of Union ... can be abandoned in favour of Federation."<sup>12</sup> To keep the door open for local consultation, the Governor was in the meantime instructed to invite the Rulers to discuss the practical distinction they felt existed between the Malayan Union and Federation.<sup>13</sup> By the end of April, the Colonial Office was clearly concerned. "We had hoped", lamented a disappointed Bourdillon, "that Malay opposition would be won round by the modifications of the policy on religious and other matters, and particularly by the deferment of the citizenship Order in Council. But this has not proved to be the case."<sup>14</sup>

At Gater's request, Bourdillon on 25 April prepared a minute taking stock of the situation; he advanced two alternative solutions whereby the new policy might be pursued. First, the Colonial Office could "stand pat" on its present policy and proceed without Malay co-operation "until and unless the Sultans and the Malays see that it is useless to resist further."<sup>15</sup> It could be reasoned that the Governor had been at pains to offer full opportunities for consultation and that if such opportunities were rejected, the dissenters had only themselves to blame for any subsequent disadvantages which the Malays might thereby suffer in the future. Certainly, the difficulties of this course were well rehearsed: Anglo-Malay relations would suffer further estrangement with Malay opinion possibly finding its outlet in more extremist expression; as a further consequent, international attention and opprobrium would be inopportunately directed at British policy in Malaya. The Sultans, on their part, would then revive their tactical demand, which they had arrived at after their meeting on 15 April at Kuala Kangsar,<sup>16</sup>

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11. Gent to Hall, 19 Apr. 1946, CO 537/1528 no. 50823 Pt I.

12. Hall to Gent, 22 Apr. 1946, Ibid.

13. Hall to Gent, 24 Apr. 1946, Ibid.

14. Minute by Bourdillon, 25 Apr. 1946, Ibid.

15. Minute by Bourdillon, 25 Apr. 1946, Ibid.

16. Gent to Hall, 20 Apr. 1946, Ibid. Gent had urged Hall against acceding to the Rulers' request, arguing that it afforded the danger of the Rulers "so committing themselves publicly, in opposition to Union policy, that they may find any withdrawal difficult." Gent to Hall, 19 Apr. 1946, Ibid.



to proceed to London to petition the King and "it is difficult to see how this demand can be refused indefinitely."<sup>17</sup>

The second course considered by Bourdillon was to satisfy the Rulers' pride by granting them certain "prestige" concessions within the framework of the new policy. Here Bourdillon relied mainly on a memorandum prepared by Hone - whom he regarded as having "an unrivalled opportunity to study the situation as it has developed" - on 2 March in which he argued that it was not only possible but also desirable to permit the Sultans a "strictly constitutional role" rather than giving them "no further part in the constitutional picture of the country",<sup>18</sup> apart from the authority granted over religious affairs, as envisaged in the White Paper. The danger, as Hone saw it, was that the Sultans "may well become the focal point of the malcontents, disreputables and even the anarchists ... If we leave a Sultan substantially out of the new constitution, do we not invite him to become the leader of the Opposition?"<sup>19</sup> Hone's idea was that the Sultans should be granted the formal right of "assent" to State and Central Legislature enactments to be exercised co-jointly with the Governor. As Gent had already submitted his recommendations along similar lines, Bourdillon felt that this second alternative was a "possibility worthy of exploration" since the Rulers' emphasis on "Federation", in part, stemmed from their fears, real or imagined, of their prospective disappearance from a formal position in the new constitution. The possible difficulty, as Bourdillon perceived, was that any departure from the present policy might antagonise the other non-Malay communities and "create a stronger opposition than that which we have experienced hitherto."<sup>20</sup>

While generally agreeing with Bourdillon's analysis, Paskin cautioned against allowing "political considerations unduly to influence the recommendations as to the functions of the State Councils." It would be a mistake, he reasoned, to prematurely "boost" the legislative functions of the State Councils: "... if one were now to take a parade of giving the Sultans the appearance of some substantial part in the proceedings of the State Councils, and if it were subsequently decided that the legislative functions of those Councils will be of a very

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17. Minute by Bourdillon, 25 Apr. 1946, Ibid.

18. Memo. by Hone, 2 Mar. 1946, CO 537/1548 no. 50823/34 Pt I.

19. Memo. by Hone, 2 Mar. 1946, Ibid.

20. Minute by Bourdillon, 25 Apr. 1946, CO 537/1528 no. 50823 Pt I.

limited and comparatively minor character, the Sultans might feel again that they had been let down."<sup>21</sup> On 26 April Gater approached Hall for a decision, underlining that it was "most important that Sir Edward Gent should be in no doubt of the attitude taken here", and that if concessions were contemplated, they should be granted comprehensively and not piecemeal as favoured by Gent.<sup>22</sup> The matter was discussed with Hall in a departmental meeting which Creech-Jones, Gater, Lloyd, Paskin and Bourdillon attended on the night of 29 April. The Secretary of State, however, preferred to await further developments in Malaya before even considering any modification of the position of the Sultans in the new constitution.<sup>23</sup>

By the end of April, of the Malay organisations, only the Indonesian-inspired Malay Nationalist Party (MNP) had submitted its views to the Governor. Though in general agreement with the Malayan Union policy, the MNP nevertheless attacked the undemocratic way in which the new policy had been put forward without prior consultations with the people. But, as Gent pointed out, the MNP "is not considered to be as influential in Malay circles as Dato Onn's UMNO." The latter, he observed, had not responded to his feelers and were probably "taking their cue from the Sultans with regard to the discussion." In any case, Gent hoped that the MNP's lead "may spur other Malay organisations to open discussions."<sup>24</sup>

The Sultans responded to Gent's invitation for preliminary discussions on the distinction between "Federation" and "Union" on 2 May. The day before, the Rulers, in their own meeting, had arrived at certain "conclusions" which they accordingly proceeded to put before the Governor: these called for the "Federation" of the Malay States with a central body handling common matters like defence, currency and communications; the preservation of State nobility; and the cancellation of the MacMichael Agreements. On this "rather stiff start"<sup>25</sup> Gent requested, and received, a fuller set of the Rulers' proposals on 4 May which went much further than the "prestige" concessions contemplated by the Colonial Office: the Rulers were adamant that "Federation" must be

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21. Minute by Paskin, 4 May 1946, CO 537/1529 no. 50823 Pt II.

22. Gater to Hall, 26 Apr. 1946, CO 537/1528 no. 50823 Pt I.

23. Minute by Bourdillon, 30 Apr. 1946, *Ibid.*

24. Gent to Hall, 26 Apr. 1946, *Ibid.*; see also Dahari Ali to Gent, 16 Apr. 1946, BMA/RC 13/46. The MNP was founded by a group of Malay radicals in mid-Oct. 1945.

25. Gent to Hall, 2 May 1946, CO 537/1529 no. 50823 Pt II.

substituted for "Union"; the States would retain their position as "independent protected Malay States similar to the status of the State of Johore before the War"; Federal and State affairs would be handled by both Federal and State Executive and Legislative Councils respectively, with the latter having an unofficial majority; all that were not stated as Federal subjects would be remitted to State control; a High Commissioner, instead of the Governor, would preside over the Federal Council while the Ruler and a Malay officer would replace the Resident Commissioner in respectively presiding over the State Executive and Legislative Councils; the Ruler's "assent", in addition, was required for all Federal and State enactments. Pending the outcome of the Secretary of State's response to their proposals the Sultans agreed to defer their journey to England and would accept a new Agreement "superseding", and not "repudiating", the MacMichael Agreements.

Significantly, Gent by 4 May had changed his mind concerning the Malayan Union policy. The value of the present policy, as Gent saw it, depended upon agreement with the Malays but as the latter were unwilling to co-operate, HMG must be prepared to attain the same "essential and progressive advantages of Union" under Federal guises "to which Malay opinion has come to attach the greatest importance." If the main principles of the Sultans' proposals were accepted, then "We shall have achieved surprisingly early and with Malay consent that unity which was the ultimate objective of democratic policy." His discussions with the security services that afternoon had confirmed his own "intensive study of public opinion" that Malay opposition, now "widely stirred" and extending to the rural and urban districts, must be placated; the alternative was "very serious likelihood of organised and widespread non-cooperation and disorder on the part of the Malay people" which would actively assist the Malayan Communist Party and Indonesian political organisations. The Rulers' recommendations, urged Gent, therefore deserved to be "most sympathetically received."<sup>26</sup>

That some settlement with the Malays was politically desirable had already been urged by L.F. Knight, the acting Director of the Malayan Security Service (MSS) who warned in his report for April that it would be "most unwise ... to ignore the possibility of wide-spread trouble in

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26. Gent to Hall, 4 May 1946, CO 537/1528 no. 50823 Pt I.

the way of passive resistance, or even active uprising, if the Malays are not persuaded that the views of their leaders are being given the attention that they consider they deserve":

That the influential Malays, while insisting that passive resistance is at present the correct weapon, do not regard violence as being out of the question, was demonstrated in a speech by Dato Onn made on April 13th. He strongly criticised the attitude of H.M. Government, and its alleged reversal of previous promises, going so far as to claim that it was only by his influence that violence and bloodshed had so far been avoided. He said that the Rulers were solidly behind UMNO but that both they and he would be unable to restrain the extremist elements among the Malays if their objects were not achieved.<sup>27</sup>

As another report later illuminated: "MNP propaganda in May 1946 continued to incite Malays to denounce the policy of moderation advocated by Dato Onn and the Sultans, to join the Pan-Indonesian campaign, and to oust the British 'avaricious Imperialists!'."<sup>28</sup>

Gent's volte-face, however, stunned the Colonial Office. Surprised by the Governor's change of mind, Bourdillon remarked: "This recommendation goes much further than anything we have hitherto heard from Sir Edward Gent ... It seems that there are certain questions which Sir Edward Gent must be invited to answer before the matter proceeds any further."<sup>29</sup> Gater originally wanted to send a personal telegram from himself to Gent to clarify the matter since, as Bourdillon put it, "I hardly think we can ask the Secretary of State even to consider whether he would be prepared to contemplate anything at all on these lines, without being much clearer on certain points than we are at present."<sup>30</sup> The Secretary of State, however, believed that it was fundamental that Gent should have no doubt about his attitude on this matter and instructed, after his discussion with Gater on 7 May, that a new draft be submitted the following day to "reflect" more accurately his views. The tone of the new telegram worried Creech-Jones who "could

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27. MSS/PIJ, Apr. 1946, p. 5.

28. MSS/PIJ, 30 Jun. 1947, p. 17.

29. Minute by Bourdillon, 6 May 1946, CO 537/1529 no. 50823 Pt II. See also account in A.J. Stockwell, British Policy and Malay Politics During the Malayan Union Experiment 1942-1948, (Kuala Lumpur, 1979). pp. 87-92.

30. Ibid.

not, speaking for himself, put the position to Sir E. Gent quite so strongly"; Gater, however, supported the Secretary of State's view that it was "essential that Sir E. Gent should know your [Hall's] mind."<sup>31</sup> Hall's subsequent reply to Gent on 8 May severely disparaged the Governor's assessment of the situation: "your sudden and fundamental change of attitude has come as a great shock to me. I find it hard to believe that it has been possible for you to reach a complete assessment of public opinion in so short a time." Even the strongest Parliamentary critics, Hall reminded Gent, "hardly hinted at changes so radical as those which you now advocate." The present policy, Hall recalled, had been endorsed by the wartime Coalition Government, sanctioned by the present Labour Government and approved, without a division, by both Houses of Parliament; under such circumstances, he was "quite unable, at present to contemplate any course which would involve abandonment of fundamental principles of Union." Hall wanted the Governor to provide a more "detailed appreciation" and "reasoned presentation" of the arguments that would justify, in Gent's view, "so complete a change of front" to the Cabinet and Parliament with particular emphasis on (a) any evidence that the Malays generally were behind the Sultans, (b) the proportion of Malays still favourable to the Malayan Union provided minor modifications were made, (c) the attitude of the Chinese and Indian towards the scheme, and (d) a more detailed appreciation of the significance in the life of Malaya of the MCP and the Indonesian political organisations.<sup>32</sup>

Gent's reply on 11 May reaffirmed his conviction that the available evidence from his security services and from reports by the Resident Commissioners indicated that Malay opinion was "uncompromisingly" behind the Rulers in their resistance to the Malayan Union. Significantly, as Gent hastened to add, "the force of Malayan opinion is not due to personal views of the Rulers, but is expression of Malay popular feeling" with the Sultans in fact "now playing moderating part".<sup>33</sup> There was "no basis" for expecting that the objects of British policy - unity and political progress - could be achieved through the "Union road" and only a "different road acceptable to Malay opinion"<sup>34</sup> would satisfy the Malays - "minor modifications would not change their feelings."<sup>35</sup> Neither the Chinese nor the Indians, Gent further appreciated, had displayed

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31. Gater to Hall, 8 May. 1946, Ibid.

32. Hall to Gent, 8 May 1946, Ibid.

33. Gent to Hall, 11 May 1946, (Telegram no. 268), Ibid.

34. Gent to Hall, 11 May 1946, (Telegram no. 267), Ibid.

35. Gent to Hall, 11 May 1946, (Telegram no. 268), Ibid.

any preference for either the Malayan Union or Federation and were interested only in popular representation in the Council and in the retention of their separate nationality along with their Malayan Union citizenship. With regard to the MCP Gent warned that, while its influence was ebbing because of the strong policy of the BMA and the restored influence of the moderate KMT, it was always alive to any opportunity to "disturb the peace" and its long-term object had always been the overthrow of the British Malayan Government. The attitude of the Indonesian political groups towards the Malayan Government would largely depend on whether British policy could be credited with sympathy for Indonesian aims in the NEI and whether "Malay opinion is sufficiently met in our own political problem in Malaya."<sup>36</sup> With the growing scale of Malay non-cooperation, there was the real danger that "substantial Indonesian elements in West coast states may develop acts of violence against non-Malay communities."<sup>37</sup> Provided the "Federal road" was accepted, Malay opinion was not unfavourable to the conception of a closer unity of the Malayan territories and a movement away from "open separationist ideas". The Governor once again registered his plea that HMG "can well afford to allow local views to influence their decision on which road to go forward, as earnest of their policy of developing local self-governing institutions."<sup>38</sup>

The Governor's latest telegrams were discussed with Hall on 15 May. The previous day Bourdillon argued in a memorandum submitted for the discussion that in order to preserve the essential framework of the present policy, HMG must stand firm on its fundamental principles of (a) a strong Central Authority and (b) the possession of jurisdiction. Since the Rulers' proposals seriously challenged these twin cornerstones of British policy, their conception of "Federation" could not be usefully contemplated. But, as Bourdillon further elaborated, the concept of "Federation" was "an extremely wide one", embracing a wide variety of central-local relationships: the Malayan Union could in fact be interpreted as a form of "Federation" since the individual States under the system had not ceased to exist. Both the fundamental principles of jurisdiction

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36. Gent to Hall, 11 May 1946, (Telegram no. 268), Ibid.

37. Gent to Hall, 11 May 1946, (Telegram no. 267), Ibid.

38. Gent to Hall, 11 May 1946, (Telegram no. 268), Ibid.

and a strong Central Authority, he believed, could be safeguarded in a loosely-defined "Federation": as Bourdillon pointed out, the simplest means of introducing "Federation" would be through a single authority possessing jurisdiction - such as the Crown - and this would demand "no more than changes of detail in the existing Order-in-Council"; since the Federal system left unspecified the extent or nature of powers allocated ab initio to the State Councils, it was possible to plan it "the other way round" by reserving to the Central Authority all essential powers necessary for securing effective unity and remitting the "residue" to the States. Whether such an approach would satisfy the Malays Bourdillon was uncertain but he drew up in the meantime a list of Federal-State subjects and some purely "prestige" concessions that could serve as a basis for further discussions.<sup>39</sup>

Hall's response was not wholly favourable. He saw difficulties in the tentative division of Federal-State subjects and felt that the "formal concessions" would not impress the Sultans who would rightly regard them as "trivial".<sup>40</sup> He therefore cabled Gent on 16 May that, while he would not "rule out" any "adjustments" provided they retained the parameters of the framework defined by Bourdillon, he would not entertain the Rulers' proposals in their present form since these, by implicitly insisting on the abrogation of jurisdiction by HMG would not only require fresh legislation by Parliament but would also put the Government in an "indefensible position", and by strengthening State power "as never before" through the establishment of Executive and Legislative Councils the proposals would only precipitate the "constant drag of powerful parochial interests" and detract from the political coherence envisaged in the Malayan Union framework. Hall feared that the States would only remit to the Central Authority an extremely limited number of subjects with further remissions depending upon the unanimous approval of all the Rulers.<sup>41</sup> For the time being, Hall preferred to await the arrival of the Governor-General in Malaya and his subsequent appreciation of the situation as well as the report from the two-man Parliamentary fact-finding team, consisting of Rees-Williams and David Gammans, before responding to the Sultans proposals.

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39. Memo. by Bourdillon, 14 May 1946, Ibid.

40. Minute by Bourdillon, 23 May 1946, Ibid.

41. Hall to Gent, 16 May 1946, Ibid.

Throughout April and May the new Governor-General designate, Malcolm MacDonald, had been kept fully informed of developments in Malaya. The son of James Ramsay MacDonald, Britain's first Labour Prime Minister, Malcolm MacDonald entered the Cabinet, first, as Secretary of State for the Colonies in June 1935, and then as Dominions Secretary from November that year. In May 1938 he accepted the appointment for the second time as Colonial Secretary on the resignation of his predecessor, Ormsby-Gore, after the Cabinet rejected a plan for the partition of Palestine which had strong departmental backing. With the formation of the Coalition Government in May 1940 MacDonald was offered the Ministry of Health but in February 1941 he agreed to become the High Commissioner to Canada where he remained for five years before returning to London in April 1946 for his next appointment as Governor-General British territories in South East Asia, a post where he was to work longest and where his skill as a "conciliator and an ideal chairman of committees, reconciling differing views"<sup>42</sup> was to be put to the test in reviving the stalled Anglo-Malay negotiations.

Before leaving for Singapore for his appointment, MacDonald discussed the Malayan problem with Hall on 16 May. Hall began by making clear to MacDonald his views on Malayan policy which the Governor-General designate expressed "full personal agreement" and hoped that a solution would be possible within the framework which was regarded as essential. To MacDonald's inquiry as to whether he would be prepared to recommend modifications in the policy, which would be regarded as permissible within the framework, or whether a scheme to be worked out locally and submitted to the Colonial Office was more preferable, Hall indicated that he favoured the latter course as it was difficult to assess from Whitehall the relative importance which would be attached in Malaya to any modification that might be considered. Hall accordingly advised MacDonald to hold further discussions with the Sultans as well as influential Malays with a view to submitting fresh proposals for consideration. But, as Hall impressed upon him, he would require "a great deal of persuasion before considering any variations in the essential framework of the policy." Malaya's present economic problems, Hall rationalised, "had the effect of magnifying political difficulties" but, with the passage of time, he believed a solution might become easier. MacDonald assured the Secretary of State that he would "do all in his

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42. Minute by R.H. Scott, 22 Feb. 1951, FO 371/FZ 1016/28 no. 93009.



power" to work within the essential framework but would be "quite frank" if this could not be done. Hall, on his part, hoped there would be no disappointment if his own communications were "equally frank".<sup>43</sup>

MacDonald arrived in Singapore on 21 May; his installation the following day, like Gent's, was boycotted by the Malays. Three days later, MacDonald submitted his recommendations to the Colonial Office: "If I thought delay did not matter I would refrain from offering you advice until I had been here longer, but I am convinced that time is of the essence in this matter." After wide-ranging discussions with Gent, Gimson, Newbould, Hone (who became MacDonald's Secretary-General) and Sir John Maude, MacDonald upheld Gent's assessment of the situation: "Far from feeling this change too great or too hasty, it increases my respect for his [Gent's] courage, honesty, and capacity as one of your servants and I fully agree with his present view." MacDonald confirmed that Malay opposition was "widely representative, well organised and ably directed" and "no range in explanations or arguments will substantially alter [it]"; the Sultans were not "free agents" but were "instructed as to their attitude by UMNO". A "wholly rigid" attitude by HMG would alienate completely moderate Malay opinion. Failure to reach agreement, MacDonald warned, would cast a shadow over the "full trust in British leadership in this region which is the main base of the British position in the Far East".<sup>44</sup>

... we shall begin to lose acceptance of our leadership by local peoples, and process of our being at each stage bit behind local political opinions (such as has been so unfortunate in the history of the Indian problem) will start. We must, of course, keep in mind that there are powerful political groupings in Asia which are ready to exploit any weakening of our position i.e. Indian nationalists and Imperialism, Chinese Imperialism and especially Pan Malayan Movement led by Indonesians.<sup>45</sup>

Gent's recommendations, which MacDonald warmly supported, were communicated to Hall the next day. These consisted of the establishment of a new "Malaya Federal Union" with HMG represented by a High Commissioner;

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43. Minute by Bourdillon, 23 May 1946, CO 537/1529 no. 50823 Pt II.

44. MacDonald to Hall, 25 May 1946, Ibid.

45. Ibid.

it would retain the conception of a strong Central Authority dealing with all pan-Malayan matters and with powers overriding State legislation either through "concurrent" legislation with the provision that any State law repugnant to the Central Authority would be declared null and void, or by the drawing up of a limited list of State subjects; the State Councils, on the other hand, though confined to purely local matters, could nominate or elect members to the Central Legislature; the Sultans would furthermore be invested with executive and administrative powers within their own States while State lands would be invested in them rather than in the Crown; with regard to the "thorny problem" of jurisdiction, it was recommended that a further supplementary agreement, not supplanting the MacMichael Agreements, but declaring that any future modifications of the constitution by HMG would be effected only with the prior agreement of the Sultans, could be negotiated with the Rulers and embodied in a supplementary Order-in-Council.<sup>46</sup> If the proposals were approved as a whole, MacDonald believed an agreement was possible: "If they are only accepted in part, our chances will be by that much reduced." He assured Hall, however, in his previous telegram, that there would be no unfavourable reactions from the non-Malay communities; the main interests of the Chinese were in the restoration of peaceful conditions for their business and they were positively interested that an agreement be quickly achieved. MacDonald urged Hall to reach a decision "without delay" since the Malay leaders were becoming "restive and dissatisfied that no answer is yet forthcoming" after nearly three weeks and unless Gent and himself could assure the Sultans that a definite and constructive reply was forthcoming, the Rulers might not be prepared to meet for further consultations.<sup>47</sup>

Both the two-man Parliamentary fact-finding team, who had arrived in Malaya on 19 May from Sarawak after the completion of their investigation into the Sarawak cession question,<sup>48</sup> and had held talks with Gent and MacDonald, had also arrived at the same conclusions. The Labour member for South Croydon, Rees-Williams, and his Conservative counterpart, the member for Hornsey, Gammans, had been approached by Hall

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46. MacDonald to Hall, 26 May 1946, Ibid.

47. MacDonald to Hall, 25 May 1946, Ibid.

48. For an account of their mission to Sarawak, see R.H.W. Reece, The Name of Brooke: The End of White Rajah Rule in Sarawak (Kuala Lumpur, 1982), pp. 211-213.

to look into the Malayan problem after their mission to Sarawak. Both men were old Malayan hands: Rees-Williams had been a lawyer in Penang before the war and Gammans, who spoke fluent Malay, had been in charge of co-operatives; unlike Rees-Williams, however, who rarely showed any particular interest in Far Eastern affairs in the Commons,<sup>49</sup> Gammans was a severe critic of HMG's Malayan policy, earning for himself a reputation in Parliament as the Conservative Spokesman on Far Eastern affairs,<sup>50</sup> and, although Hall had hoped that the Conservatives would agree to send instead Lord Soulbury, a former High Commissioner to Ceylon, Oliver Stanley insisted on Gammans and Hall was obliged to agree.<sup>51</sup> After MacDonald's installation on 22 May Rees-Williams flew with the Governor-General on 24 May to his temporary residency in Penang. Gammans, however, accepted Dato Onn's invitation to travel by road up the west coast where he was greeted at every town by the "amazing" spectacle of mammoth Malay demonstrations against the Malayan Union. "The Malays", Gammans recorded at Kuala Lumpur, "have undoubtedly become politically conscious overnight."<sup>52</sup> After meeting the Rulers and UMNO representatives at their two-day conference from 28 to 29 May at Kuala Kangsar, Rees-Williams, with the concurrence of Gammans, reported to Hall:

There was no doubt about Malayan feeling being strong on this matter, and organised as never before. At present good humoured and loyal, British flags everywhere and His Majesty's health drunk at banquet, but foresee rapid decline if satisfactory settlement not soon arrived at.

The Sultan of Perak had already characterised his position as one "between the devil and the sea (no disrespect to the S. of S. intended)"; Dato Onn on his part had "completely lost faith" in the British and was "having trouble with the young elements who are bitter." Both the Sultans and UMNO were adamant that the MacMichael Treaties must be replaced and the name of the new constitution should be "Federation" and not "Union".<sup>53</sup>

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49. Reece surmised that Rees-Williams was selected because "he was thought unlikely to rock the political boat", *Ibid.*, p. 211.

50. See p.173 above.

51. See Reece, p. 211.

52. Malay League of Perak, Hidop Melayu - a brief review of activities of the Malay National Movement, (Ipoh, n.d.), p. 24.

53. Rees-Williams to Hall, 29 May 1946, CO 537/1529 no. 50823 Pt II.

As Gent had been successful in inviting the Rulers to an informal lunch at King's House in Kuala Lumpur on 1 June, MacDonald on 29 May further pressed Hall for a favourable response to be conveyed to the Sultans: "If they disperse without this invitation, it will cause them much inconvenience and disappointment."<sup>54</sup> Anxious not to delay the discussions Hall decided to temporarily dispense with the need to consult his Cabinet colleagues until at a later stage and cabled his reply the following day. While approving most of Gent's recommendations, Hall upheld his own reservations concerning the issue of jurisdiction and would not "contemplate any arrangements which would thus make all future progress in Malaya dependent upon the caprice of the Sultans and of the Sultans alone."<sup>55</sup> Any future "document" in Hall's opinion would have to be approved by HMG and not by the Sultans as suggested by Gent. As a procedural concession, Hall agreed that no further changes would then be instituted without first consulting the Sultans and without giving full opportunity for the free expression of local opinion.<sup>56</sup> On the matter of "concurrent legislation" Hall demurred, preferring further discussions to be directed towards drawing up a limited list of State subjects with the understanding that the "residue" would be under the control of the Central Legislature."<sup>57</sup>

The meeting with the Rulers opened on the morning of 2 June following their informal lunch the day before. After preliminary remarks by both MacDonald and Gent that there had never been any question of the Malay States being made a British Colony, the Governor then read out the substance of Hall's response to the Rulers' proposals of 4 May: the title of the new constitutional unit would be changed to "Malayan Federal Union" with a High Commissioner replacing the Governor; a strong Central Legislature for matters of common concern; the list of State subjects to be worked out; all State enactments would require the formal assent of both the Ruler and the High Commissioner; public land would become State land and the responsibility for executive action would rest with the State authority exercised in accordance with the control of broad policy

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54. MacDonald to Hall, 29 May 1946, *Ibid.*

55. Hall to Attlee, 31 May 1946, *Ibid.*

56. Hall to MacDonald, 30 May 1946, *Ibid.*

57. *Ibid.* The subjects which Hall insisted must be included in the Central list were external affairs, defence, justice, labour, police, communications, currency and banking, immigration, citizenship, general taxation, trade and commerce and mining.

by the Central Legislature and Government; a "document of agreement" would then be signed between the Rulers and the Governor for approval by HMG which would institute a fresh supplementary Order-in-Council to implement the plan; HMG would then declare that it would not initiate any changes without full consultation with the Rulers and free opportunities for debate in the local legislatures and without taking fully into account the views of the people in Malaya.<sup>58</sup>

MacDonald was cautiously optimistic about its outcome: "Sultans were impressed with your obvious desire to meet them as far as possible and they were not dissatisfied with modifications which you authorised us to suggest." Consequently he pressed Hall to secure Cabinet approval for the proposals "sooner rather than later" as "it would be disastrous if by any chance your colleagues wish for any modification of the proposals after we have presented them to the rulers."<sup>59</sup> At the same time MacDonald sensed that HMG's position on jurisdiction might not make them feel that "certain points they regard as essential have been sufficiently safeguarded."<sup>60</sup> During the discussions both the Sultans of Perak and Kedah had referred to the MacMichael Agreements which they had requested to be superseded as part of the new agreements. The Sultan of Kedah, on his part, further wanted to know if it was HMG's intention to continue to use the Foreign Jurisdiction Act. In his reply, MacDonald maintained that the MacMichael Agreements and the existing Order-in-Council would remain, though they would be supplemented by an explanatory new agreement and a further supplementary Order-in-Council by which the new constitution would be implemented. Gent added that both points were rather "questions of mere procedure" which, in view of the concessions already made by HMG, should not impel the Rulers to take a "rigid stand". It was hoped

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58. MacDonald to Hall, 2 Jun. 1946, Ibid.

59. Ibid. On Attlee's suggestion, the situation was explained to the Cabinet on 3 June. Hall mentioned that two Sultans had pressed for some change in the MacMichael Agreements but thought that it would be necessary to "stand firm" on this point. Writing to MacDonald on 7 June, Hall assured him that the Cabinet fully supported the proposals. See CAB 128/5 CM (46) 53, 3 Jun. 1946; Hall to MacDonald, 7 Jun. 1946, CO 537/1529 no. 50823 Pt II.

60. MacDonald to Hall, 2 Jun. 1946, (Telegram No. 380), Ibid.

the Sultans would "do all that they could to eliminate these political difficulties for the Secretary of State as he, on his part, had done for them."<sup>61</sup> Looking ahead, MacDonald was worried. The Rulers were showing "many signs of nervousness"<sup>62</sup> and he was not hopeful that "we have ... heard the last of the MacMichael Agreements."<sup>63</sup>

In the meantime Gent had also written to Dato Onn on the possibility of opening formal discussions with UMNO representatives on the constitutional issue shortly after his next meeting with the Rulers.<sup>64</sup> Welcoming Gent's initiative, MacDonald suggested that it would be a "good idea" if he himself were also involved in these initial talks as he was anxious to avoid "any possibility of the impression going round that I would meet the Rulers but would not meet the UMNO representatives."<sup>65</sup> Equally anxious to avoid any appearance of being supplanted by MacDonald's shadow, Gent, however, demurred, preferring that the Governor-General not be involved at this stage. In a personal, albeit awkward, note to MacDonald, the Governor confided his "misgivings":

It seems to me particularly important that you and I should run no risk of being played off against each other, and you have publicly, and, if I may say so, very rightly, placed upon me the responsibility for seeing these negotiations through. Your very weighty support or intervention will be indispensable if we get stuck at any point and would be all the more effective if you are not yourself involved in the early stages.<sup>66</sup>

MacDonald, however, dismissed any possibility of Dato Onn playing them off against each other: "I have formed too high a regard for your character and abilities, and attach far too much importance to my duty of supporting you in your important tasks to allow anybody to do that."<sup>67</sup> As the next few meetings with the Rulers, and possibly UMNO, might "make or mar success",<sup>68</sup> and as the Colonial Office might have to be approached

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- 61. "Record of meeting between the Governor-General, Sir Edward Gent and Their Highnesses The Rulers held at King's House, Kuala Lumpur on the 2nd June, 1946 at 11 a.m.", Ibid.
  - 62. MacDonald to Hall, 2 Jun. 1946, (Telegram no. 377), Ibid.
  - 63. MacDonald to Hall, 2 Jun. 1946, (Telegram no. 380), Ibid.
  - 64. Gent to MacDonald, 6 Jun. 1946, MacDonald Papers 16/6.
  - 65. MacDonald to Gent, 8 Jun. 1946, MacDonald Papers 16/8.
  - 66. Gent to MacDonald, 13 Jun. 1946, MacDonald Papers 16/6.
  - 67. MacDonald to Gent, 15 Jun. 1946, Ibid.
  - 68. MacDonald to Gent, 13 Jun. 1946, MacDonald Papers 16/8.

for further concessions in which his support would be valuable, MacDonald stiffly asserted that "your and my mind acting together on the subject will be stronger than either mine or yours independently."<sup>69</sup> He reminded Gent that "if our negotiations fail, Parliament will undoubtedly place upon me the main responsibility for failure. I am wholly prepared to accept this. But if I am to do this I am anxious to be in a position to play a proper part in the discussions." Gent, however, could be assured that "[i]f our negotiations end in success, as I trust they will, I for one shall publicly give you the principal credit on our side." MacDonald would then "drop out of the picture", leaving Gent and his advisers to complete the discussions: "I shall then merely be at your service if you run up against any snags and want my help."<sup>70</sup>

As events unfolded it was clear that there could be no question - at least not yet - of MacDonald dropping out of the picture. MacDonald's earlier apprehensions were confirmed on 17 June when intelligence sources reported that the Rulers, in their meeting at Kuala Kangsar on 12 June, had rejected the proposals.<sup>71</sup> On 19 June, the Sultan of Perak, representing the Rulers, formally wrote to Gent expressing their desire to proceed to England and "try to settle the matter there" since HMG's position on the MacMichael Agreements meant that "we have no other course open."<sup>72</sup> Careful to avoid any impression of collusion, Dato Onn, who met Gent and Newbould later that day, had avoided any reference to the Sultan's letter but expressed essentially the same theme: the MacMichael Agreements were an "obstacle" since Malay opinion would never recognise the existence of the Malayan Union Government.<sup>73</sup> For MacDonald and Gent the more arduous task was to persuade the Colonial Secretary to agree to the replacement of the MacMichael Agreements. Both were seriously concerned about the Rulers' threat to proceed to England. As MacDonald put it: "Proper place for negotiations is here. ... Transference of discussions to London now would undermine Gent's and my authority in Malaya ... Our leaving Malaya at the present would cause serious interruption to our other tasks here. Moreover, if the Rulers go to London, they will fall into the

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69. MacDonald to Gent, 15 Jun. 1946, MacDonald Papers 16/6.

70. Ibid.

71. Gent to Hall, 17 Jun. 1946, CO 537/1529 no. 50823 Pt II.

72. Gent to Hall, 19 Jun. 1946, (Telegram no. 431), Ibid.

73. Gent to Hall, 19 Jun. 1946, (Telegram no. 423), Ibid.

hands of retired Malayan officials and lawyers with consequent increase in the difficulties of reaching agreement." Both had considered the possibility of publishing the proposals as a tactic to counteract the Rulers' opposition and gain popular support that would enable them to "hold the position" but agreed that, as the main opposition stemmed from Malay opinion in general, and not from the Rulers, the "effect of your proposals would be spoiled and their advantages ... forgotten amidst agitation against MacMichael Agreements."<sup>74</sup> MacDonald was therefore "forcibly impressed" that further insistence on the maintenance of the latter would result in a "complete breakdown in our negotiations"<sup>75</sup> and "we shall lose the opportunity to heal the breach between Malays and us":<sup>76</sup>

We feel as you do that it is most desirable to retain necessary jurisdiction but if a compromise on the extent of this is the only solution to conclusion of satisfactory agreements, then we feel that this must now be considered.<sup>77</sup>

It was better, he argued, "that we should concede them with good grace and on our own initiative now, rather than be pushed into them with a bad grace and loss of prestige later."<sup>78</sup>

While MacDonald explained that he had little sympathy for the Rulers who had voluntarily signed, and subsequently repudiated, the MacMichael Agreements, he nevertheless found himself with "considerable sympathy" for the "democratic Malayan opinion" which had provoked the Rulers into opposing the Malayan Union. The Sultans had, after all, signed the Agreements without adequately consulting Malay opinion: "Whether this was strictly constitutional or not, it is morally and politically of doubtful rectitude. It flouted all the rules of democratic Government." On the question of sovereignty, MacDonald argued that a case could also be made to show that the MacMichael Agreements, while purporting only to transfer "full powers and jurisdiction" to HMG, in

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74. MacDonald to Hall, 21 Jun. 1946, (Telegram no. 57), Ibid.

75. MacDonald to Hall, 21 Jun. 1946, (Telegram no. 58), Ibid.

76. MacDonald to Hall, 21 Jun. 1946, (Telegram no. 57), Ibid.

77. MacDonald to Hall, 21 Jun. 1946, (Telegram no. 58), Ibid.

78. MacDonald to Hall, 22 Jun. 1946, Ibid.



effect, "wholly" transferred sovereignty from the Rulers.<sup>79</sup> Replacing the MacMichael Agreements would not therefore be regarded as "a defeat" but would instead enhance HMG's reputation as a champion of democratic principles and raise pro-British feelings to a "new pitch".<sup>80</sup> If an agreement could not be reached, then "we shall miss [our] great chance" and would face the prospect of "widespread non-cooperation and bitterness which led to such damaging situations elsewhere":

Malay opinion is roused as never before. By itself, this is not a bad thing for it is highly desirable that Malays become politically conscious so as to prepare themselves to play appropriate part in developing self Governing institutions. But will be extremely unfortunate if this awakened political consciousness and interest gets rail-~~roaded~~ into extremist and anti-British channels. If we can restore Malay confidence in Britain as a result of the present negotiations and secure in possession of agreement we can prevent this. Then Malay nationalist movement is likely to be friendly with the administration here and to cooperate with us in political affairs instead of being swept into Indonesian anti-European currents.<sup>81</sup>

As a first line of attack, MacDonald proposed that he would attempt to secure, in the new Agreements to be negotiated, the inclusion of a clause providing for the retention of jurisdiction by HMG. If this failed, and he was not hopeful of it succeeding, he would then attempt to secure "partial" jurisdiction which would be "sufficiently broadly stated to secure all the jurisdiction we really need for practical purposes."<sup>82</sup> MacDonald assured Hall that non-Malay opinion would not be unfavourable to his recommendations although he would keep in contact with their representatives and enter into discussions as soon as was appropriate.<sup>83</sup> Would the Colonial Office authorise himself and Gent to "try out" the proposals, without in any way committing HMG, during their meeting with UMNO representatives on 26 June?

Hall's reply on 25 June was negative: any discussion, however tentative, he argued, entailed a "considerable amount of commitment."<sup>84</sup>

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79. MacDonald to Hall, 21 Jun. 1946, (Telegram no. 57), Ibid.

80. MacDonald to Hall, 22 Jun. 1946, Ibid.

81. MacDonald to Hall, 21 Jun. 1946, (Telegram no. 57), Ibid.

82. MacDonald to Hall, 21 Jun. 1946, (Telegram no. 58), Ibid.

83. MacDonald to Hall, 25 Jun. 1946, Ibid.

84. Hall to MacDonald, 25 Jun. 1946, Ibid.

His difficulty was understandable: he could not be expected to demolish an existing structure without the assurance of definite provisions for its constitutional successor. The night before Hall had approached Gater with plans to resurrect the idea of appointing a Royal Commission as an alternative to negotiation with the Rulers but rejected it after Gater argued that this would inevitably lead to an embarrassing "post-mortem of the whole 'MacMichael episode'": not only would awkward questions be raised as to why the Commission had not been appointed earlier but it would also afford the ex-Malayans in England a "priceless opportunity" to create the "maximum of mischief" by claiming to offer evidence, seriously undermine the prestige of MacDonald and Gent, and put the Government in an awkward constitutional position if the Malays refused to co-operate either in the deliberations or in the implementation of the Commission's recommendations.<sup>85</sup> Tactically the only course which commended itself to Hall was MacDonald's earlier suggestion that the replacement of the MacMichael Agreements be utilised as a bargaining lever to secure Malay acceptance of a strong Central Authority.<sup>86</sup> Satisfied, Hall cabled his decision:

I suggest that, while being entirely non-committal on the question of the retention of the MacMichael Agreements, you should make clear to Dato Onn the difficulty of even considering that question without a definite assurance from the Malay side that the principle<sup>87</sup> of a strong Central Legislature ... is accepted.

MacDonald and Gent met Dato Onn and other Malay notables for informal talks on 26 June at the Governor-General's residency in Penang. Stressing that the talks were "purely informal" and "commit no one", Gent read out the summary of the Secretary of State's proposals which had previously been communicated to the Rulers. To a suggestion by Dato Onn, MacDonald assured him that HMG was not engaged in "delaying tactics" but honestly sought "a speedy agreement"; neither were they "trying to evade any difficulties arising from the Rulers' reply by

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85. Gater to Hall, 25 Jun. 1946, Ibid.

86. MacDonald to Hall, 22 Jun. 1946, Ibid.

87. Hall to MacDonald, 25 Jun. 1946, Ibid.

opening separate discussions with UMNO."<sup>88</sup> As MacDonald reported to Hall, the idea of a strong Central Authority was accepted "without hesitation"<sup>89</sup> by Dato Onn although the latter preferred the defined subjects to be Federal and all residue power to rest in the States.<sup>90</sup> The "crux" of the problem was again in the MacMichael Agreements:

Data Onn: There is only one thing in the MacMichael agreements worth reading and that is the absolute cession of full powers and jurisdiction by the Sultans to His Majesty.

Gov. M.U.: Could we not leave the MacMichael Agreements aside for the moment and discuss the Secretary of State's proposals on their merits?

Dato Onn: Such discussions might go on for years.

UMNO's position, as put forward by its Secretary General, the Dato Panglima Bukit Gantang of Perak, Abdul Wahab, was not unconciliatory: "Cannot we have an assurance, if only a little assurance, that if we put up an acceptable plan, the MacMichael Agreement will be revoked?"<sup>91</sup> MacDonald subsequently cabled Hall on 27 June that there was "good prospect" for reaching agreement, provided an assurance could be given, and announced in Parliament, that the MacMichael Agreements would be abrogated. The Parliamentary statement, he reasoned, would show that HMG had retained the initiative and give her full credit for her conciliatory spirit.<sup>92</sup>

When no authoritative response was forthcoming from the Secretary of State, who was preoccupied with the troubles in Palestine,<sup>93</sup> MacDonald

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88. "Record of a meeting held at the Residency, Penang, on 26th June between the Governor-General, the Governor of the Malayan Union and Dato Onn and other Malay notables", Ibid.

89. MacDonald to Hall, 27 Jun. 1946, Ibid.

90. "Record ...", Ibid.

91. Ibid.

92. MacDonald to Hall, 27 Jun. 1946, Ibid.

93. Frustrated by Britain's efforts to block the immigration of Jews to Palestine, Jewish terrorists had unleashed a campaign of violence against British targets, resulting in the loss of a growing number of British lives. Following the destruction of 8 bridges on the borders of Palestine on 16 Jun. 1946, temporarily paralysing land communications with other States, Britain arrested some 2,700 Jewish leaders on 29 Jun. 1946. Retaliation was swift when a bomb was detonated at the King David Hotel, destroying the south wing containing the headquarters of the British Government and forces in Palestine on 22 July. See "Introduction", in World Politics and the Arab-Israeli Conflict ed. Robert Feedman, (New York, 1979), pp. 25-26.

in early July sent a personal telegram to Gater impressing upon him the need to allay Malay suspicion that HMG was not pursuing delaying tactics: "you will appreciate that an early reply here will do more good than the same reply later on." A "political war", MacDonald explained, had developed between the MNP and UMNO after the former "walked out" of the UMNO Conference in Ipoh on 30 June over a minor disagreement concerning the design of the UMNO flag. "The sooner we make our reply to the Rulers", MacDonald urged, "the better from the point of view of strengthening the position of Dato Onn moderates against that of Indonesian inspired extremists."<sup>94</sup> MacDonald was also worried about the "unhelpful nature" of press leakages, evidently inspired in London, which "will spoil the full and good effect" that would accompany a comprehensive statement by HMG. He had succeeded in persuading the Malayan press not to publish a Singapore Free Press report that the Colonial Office had agreed to some form of Federation instead of Union and the substitution of the title of "High Commissioner" for that of "Governor", but could not prevent them from withholding the story altogether.<sup>95</sup> These dangers made it "highly desirable" that an early and favourable reply be communicated to the Rulers in the very near future.

Hall finally replied on 5 July and underscored once again his concern over political and tactical considerations: "If I now place before [the Cabinet] your recommendation that the assurance should be given as proposed, they are bound to ask me what concrete suggestions or offers have been put forward as an alternative; and I shall have nothing to say." He added:

We cannot blink the possibility that the Malay negotiators, after the assurance has been given, may prove not to be amenable either as regards constitutional proposals as such or as regards the form of an agreement or as regards both.

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94. MacDonald to Gater, 6 Jul. 1946, CO 537/1529 no. 50823 Pt II. The MNP had pressed that the UMNO flag should adopt the same design as the Indonesian flag. When their proposal was defeated, the delegates completely severed their connection with UMNO and stormed out of the meeting.
95. Ibid. The Singapore Free Press report, dated 4 July, appeared in The Times on the 5 July and created a minor stir in the Colonial Office. Hall immediately cabled Gimson and Gent to state categorically that no public statement had been authorised by the Secretary of State. Hall to Gimson, 5 Jul. 1946, Ibid.

In that event, HMG will be placed in the unenviable position either of having to accept a solution which they do not approve or of appearing to be entirely responsible for subsequent breakdown in negotiations. In short, I am still afraid that HMG may be forced to concede point after point without receiving anything tangible in return.<sup>96</sup>

Though anxious to leave himself room to meet future contingencies, Hall was nevertheless persuaded, by 5 July, that the MacMichael Agreements would have to go. The question of the Agreements, he cabled Gent, "should be put on one side without prejudice to its later consideration" and, pending the satisfactory agreement of fresh constitutional provisions, some "amended or new agreement could be considered."<sup>97</sup>

The problem which remained was to get the Sultans to accept the proposals. Three days before, Hall had discussed the Malayan situation with Sir Theodore Adams<sup>98</sup> and the possibility of restarting the dialogue with the Sultans. To Hall's surprise, Adams expressed the view, which he claimed was shared by the Sultans and their advisers in London with whom he was in contact, that an agreement with the Sultans and UMNO was possible without any clear assurance that the MacMichael Agreements would be superseded by fresh treaties. Adams then went on to suggest a possible role for himself as a mediator enjoying the confidence of the Rulers and "with a foot in both camps", who would be able to reassure the Sultans from his inside knowledge of intentions and sentiments of HMG. Coincidentally, the same point was stressed by Lord Marchwood in a subsequent conversation with Hall, with Marchwood mentioning Adams by name and disclosing that the suggestion was put forward on the behalf of "others" who were advising the Sultans. In the light of UMNO's emergence as "the prominent factor in the local situation", Hall speculated that "the Sultans, seeing themselves left behind, are playing with the idea of resumption of negotiations through Adams in order to bring themselves back into the picture."<sup>99</sup>

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96. Hall to Gent, 5 Jul. 1946, Ibid.

97. Ibid. Emphasis mine.

98. Adams had flown out from England to accompany the Parliamentary team to Sarawak and Malaya and was instrumental in persuading UMNO representatives to open discussions with Gent. He returned to England in mid-June 1946. See Reece, pp. 216-17 and 229; also Gent to MacDonald, 6 Jun. 1946, MacDonald Papers 16/6.

99. Hall to Gent, 4 Jul. 1946, CO 537/1529 no. 50823 Pt II.

In fact by late June the Sultans were already being advised to "weaken" their opposition to the Colonial Office's proposals. John Foster, after long discussions with the Sultan of Johore's solicitor, Robert Turner, and Sir Richard Winstedt had by then also agreed that Gent's proposals "merit very careful consideration". Replying on 28 June to the Sultan of Kedah's telegram of 25 June, soliciting advice on the tenability of the British proposals, Foster urged Badlishah to renew discussions with Gent on the basis of these proposals which seemed to him quite satisfactory and restored to some extent the "position of Sultans in framework of the new federation":

... further agreement proposed by Gent to embody fresh arrangements would in our opinion be satisfactory method of dealing with situation; also fact that Gent stated that Order-in-Council would stand would not seem insuperable objection as supplementary Order-in-Council proposed by Gent would bring any fresh arrangements agreed with Sultans into effect.

As it was unlikely that the Government would agree to the "outright cancellation of MacMichael agreements" it would be unwise, Foster argued, to insist on their abrogation or the withdrawal of the Order-in-Council especially "when your position can be restored without such a surrender on the part of Government as would make them lose face."<sup>100</sup>

In reply to an inquiry by Hall, Gent disagreed completely with Adams' surmise that the Sultans could be assured without the replacement of the MacMichael Agreements<sup>101</sup> but affirmed that his presence in Malaya was "likely to be a help" and he would "always be glad" to have Adams' assistance in re-opening the dialogue with the Rulers. While Adams had "considerable knowledge of, and sympathy with, Malay interests", Gent nevertheless believed that he had showed, during his brief visit to Malaya in June, that he also had "powers of adapting his pre-war pro-Malay prejudices ... to the realities of His Majesty's Government's

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100. Turner to Badlishah (enclosing Foster's letter), 28 Jun. 1946, Nik Ahmed Kamil Papers SP 43/6/43.

101. It seemed unlikely that Gent knew about the contents of Foster's letter to Badlishah, which had been despatched by air, on Winstedt's suggestion, rather than telegraphed so as to ensure its confidentiality. Ibid.

policy."<sup>102</sup> Paskin accordingly phoned Foster on 8 July to spell out that the only possible role for Adams that would commend itself to Hall was that of an adviser to the Sultans: there could be no question of Adams going as an emissary of the Colonial Office or as an "intermediary" between MacDonald and Gent on the one hand and the Rulers on the other since both these courses would create suspicion in the Malays. Paskin then phoned Adams who professed himself "perfectly happy with that arrangement" <sup>103</sup> and agreed to leave early and arrive before Gent's scheduled meeting with the Rulers on 18 July so that he could, in MacDonald's words, "use his influence with the Rulers" to persuade them to adopt a more "co-operative attitude towards the negotiations."<sup>104</sup>

On Thursday afternoon, 18 July, MacDonald and Gent met both the Rulers and UMNO representatives to discuss the Secretary of State's reply to the Sultans' response of 19 June.<sup>105</sup> The Rulers and UMNO were informed that Hall had "not closed his mind" and "is not being rigid" with regard to the Treaties and the question of whether the latter needed to be "amended, amplified or replaced" could be considered after the precise terms of the new constitution had been agreed. As Gent hastened to add, the process of negotiation would not "prejudice your position with regard to the MacMichael Agreements and I am prepared to give you that assurance in writing." The Sultan of Kedah remained unassured: "[T]he MacMichael Agreements still exist and we are not able to get away from their implications so long as they exist." The Sultan of Perak added that it would be easier if the Rulers' proposals were criticised in detail by HMG or, alternatively, a "completely revised constitution" could be worked out for their criticism. MacDonald pressed the importance of achieving agreement on general principles first and leaving the details to be worked out later: the Secretary of State's previous "constructive" proposals therefore "still stand and are open for immediate discussion."<sup>106</sup> In the absence of assurance on the Treaties,

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102. Gent to Hall, 6 Jul. 1946, CO 537/1529 no. 50823 Pt II.

103. Minute by Paskin, 8 Jul. 1946, CO 537/1563 no. 50823/47.

104. MacDonald to Hall, 7 Jul. 1946, CO 537/1529 no. 50823 Pt II.

105. The idea of a combined meeting with both the Rulers and UMNO was suggested by Hall on 10 Jul. 1946; see Hall to Gent, 10 Jul. 1946, Ibid.

106. "Record of meeting held with Malay Rulers and leading Malays at King's House, Kuala Lumpur on 18th July 1946", CO 537/1530 no. 50823 Pt III.

the atmosphere of the meeting, Gent reported, became "difficult and suspicious" although he was not unhopeful that the Rulers and UMNO would see the advantages of starting joint negotiations.<sup>107</sup> Two days later Gent received the Rulers' reply which had been worked out with their advisers and Adams. Despite the absence of an "unqualified declaration" concerning the abrogation of the Treaties, the Sultans nevertheless stated that they were prepared to commence negotiations but only on the basis that, upon the successful conclusion of a satisfactory arrangement, a new constitution would then be executed to replace the MacMichael Agreements. Without this categorical statement, the Rulers emphasised that they would not "sign any agreement whatsoever". Gent was jubilant and attributed the Sultans' change of heart largely to the handiwork of Adams who "in this proved greatest possible use."<sup>108</sup>

With the onset of negotiations, Anglo-Malay relations entered the phase which Gent characterised as "hopeful, but very delicately balanced".<sup>109</sup> In working towards detente with the Malays, Britain had suspended her insistence on the retention of jurisdiction, deferred the implementation of the Citizenship Order-in-Council, and agreed to compromise on the form of the future Central Authority all within six months after the new policy was revealed through the January White Paper. The tenor of Malay opposition, both surprised and alarmed not only the officials on the spot but even Whitehall itself and finally induced a reluctant Hall to heed the pleas of Gent and MacDonald and accept the necessity of a local base of Malay support to underpin the British regime in Malaya. "In the present world situation in the East", Hall reminded the Rulers, "we are together responsible for the safety and good sailing of this ship in waters which are partly uncharted and liable to sudden storms which allow of no drifting."<sup>110</sup>

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107. Gent to Hall, 18 Jul. 1946, CO 537/1529 no. 50823 Pt II.

108. Gent to Hall, 20 Jul. 1946, Ibid.

109. Gent to Hall, 20 Jul. 1946, (Telegram no. 626), Ibid.

110. Cited in Gent to Hall, 8 Jul. 1946, Ibid.



## II

Although partially eclipsed by the main constitutional struggle which held centre-stage for much of April to July 1946, the citizenship question was not entirely ignored during the same period. On the day the new constitutions came into force, Hall instructed both Governors to set on foot immediately the necessary consultation of "all interested communities" in Malaya for which the Malayan Union Citizenship Order-in-Council had been deferred since March.<sup>111</sup> Interest in the subject flickered momentarily when Gent reported on 4 April that considerable publicity had been given in the Malayan press to an interview given by Creech-Jones to a Reuter correspondent, Jon Kimche, on 2 April, in which the Parliamentary Under-Secretary was purported to have made references to the "outstanding" war records of the Chinese and Indians and that the Government "owed them their recognition" as well as HMG's intention to confer citizenship on some 2,000,000 Malays, 1,700,000 Chinese and 600,000 Indians.<sup>112</sup> Hall quickly replied on the same day that Creech-Jones had not been aware that anything would be published when he made those remarks: Kimche took no notes and gave no indication that he sought a routine press interview. Nevertheless if an official response was necessary, Hall authorised Gent to emphasise that no figures were mentioned by Creech-Jones during the interview and that "many Chinese and Indians as well as Malays had shown much heroism and devotion during the Japanese occupation."<sup>113</sup> The Governor of Singapore, F.C. Gimson, in the meantime, had also informed the Colonial Office that the appellation "Malayan Union citizenship", by giving the impression that it referred only to the Malayan Union, was already causing "confusion" in Singapore and required urgent clarification.<sup>114</sup>

Partly to clear the Colonial Office's own mind on the subject, Bourdillon, on Creech-Jones' instructions, drew up on 9 April a lengthy memorandum summarising the main sources and arguments which had so far been critical of the citizenship proposals. Out of the four main sources of criticism, ranging from the general remarks by the Malay Rulers at the

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111. See p. 174 above.

112. Gent to Hall, 4 Apr. 1946, CO 537/1528 no. 50823 Pt I.

113. Hall to Gent, 4 Apr. 1946, Ibid.

114. Gimson to Hall, 4 Apr. 1946, CO 537/1544 no. 50823/15/1.

time of the MacMichael mission to the largely diffuse protests by the Malay associations and individuals, and from the "most thoughtful and constructive criticisms" by Parliament to the irresponsible and "violent" outbursts of the prominent Old Malaysans, Bourdillon detected a common thread, "namely, that there is a gap between the Government's basic objective, with which hardly anybody has quarrelled, and the means proposed for achieving it":

The basic objective ... is that 'political rights in the Malayan Union should be extended to those who regard Malaya as their real home and as the object of their loyalty'. The clear implication of this statement ... is that political rights in Malaya should be made to depend upon the acceptance of political responsibility; but the detailed proposals as at present phrased, would be likely to admit many Chinese (for instance) who have accepted no real political obligations towards the Malayan Union, who maintain their allegiance to China and who intend to return there when they have amassed enough capital. There are many Chinese who remain longer than ten years in Malaya without taking root in the country.

If it was true that the "net has been cast too wide" then it was perhaps appropriate to consider whether the requirements of birth or a ten-year residence and oath of allegiance proposed in the White Paper constituted a "sufficient" condition for citizenship in either the Malayan Union or Singapore. A further issue which had to be resolved concerned the question posed by the Sultan of Kelantan in his memorandum to MacMichael: why should birth or residence in Singapore be permitted as a qualification for citizenship in the Malayan Union? As Bourdillon put it, "it cannot be denied that the present proposal would automatically admit to citizenship of the Malayan Union many people (particularly Chinese) who cannot, in the nature of things, have any sense of political responsibility towards the Union or its Government."<sup>115</sup>

As a first step to the opening of consultation, Gent on 18 April issued an official statement detailing the citizenship proposals which had appeared in Cmd. 6749 and invited public comments on its recommendations, emphasising at the same time that the fullest consideration would be given to such views before final decisions were taken. The

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<sup>115</sup>. Memo. by Bourdillon, 9 Apr. 1946, CO 537/1542 no. 50823/15 Pt I.

statement was given widespread publicity in the English and vernacular press of Malaya, and by circulation to representative associations throughout the country. Apart from the Malays, almost all of whom refused to submit their views pending the settlement of the main constitutional issue, the reaction from the representatives of the other communities and organisations was promising: the Malayan press, ethnic and commercial associations, chambers of commerce, political parties and individuals from the principal communities all "responded freely" to Gent's invitation.<sup>116</sup> The Straits Times on 20 April, the Malay Mail and the Straits Echo on 23 April, for instance, issued leading editorials urging the Government to tighten the qualifications for automatic citizenship by restricting it to persons born in Malaya with either at least one Malaya-born parent or with "vested interests" or "continuous residence" in the country. Among the numerous individuals who submitted their views and the ethnic associations like the Selangor Indian Association, the Central Indian Association, the Malay States Sinhalese Association and the Selangor Ceylon Tamils Association, many of whose members were British subjects, the sources of anxiety concerned their status and rights: would dual nationality be allowed or would the acceptance of Malayan Union Citizenship invariably entail the renunciation of their British nationality? What were the special rights conferred by Malayan Union Citizenship and what were the disabilities of non-citizenship? Many people were also unclear, as the Selangor Chinese Chamber of Commerce pointed out, as to whether a Malayan Union citizen was in fact a British subject or a British Protected Person? In view of the fact that the Malayan Union was not a sovereign State, what status did a Malayan Union citizen have when he travelled abroad?<sup>117</sup> It was clear to the British that there were still many doubts.

Doubts were also expressed by the MDU which pointed to the anomaly of making persons "ordinarily resident" in Singapore Malayan Union citizens, thus giving them political rights in the Union, and of requiring a Singapore citizen to affirm allegiance to the Union Government which was in effect a separate political entity. Such confusion could be avoided,

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116. "Interim Report of the Committee appointed by His Excellency the Governor to consider and make recommendations to the Government upon the matter of the qualifications appropriate to Malayan Union Citizenship." 2 Jul. 1946, CSO 474/46.

117. "Summary of Views" in "Interim Report ...", CSO 474/46.

the MDU suggested, if "the anomalous attempt to establish common citizenship on a basis of constitutional disunity be dropped altogether." It thereby bolstered its argument that Singapore should be included in the Malayan Union. As for the residential qualification for automatic citizenship, the MDU proposed that this should commence from the date of implementation of the Order-in-Council instead of from 15 February 1942 in order that "loyal Malaysians left behind in Malaya during the Japanese occupation should be given an opportunity of acquiring Malayan Union citizenship."<sup>118</sup>

The MCP's views were submitted in a joint memorandum by its Singapore and Johore committees on 1 May. Without a clear expression of "civic rights", the MCP memorandum charged, all discussion on the qualifications for citizenship were "meaningless":

We wonder what kind of citizens the British Government wants the people of Malaya to be? If the people have no rights of freedom of speech, writing, movement, habitation, assembly, association, thought, belief, election, participation in politics, and if the citizens cannot criticise the Govt., and bring forth their own political proposals, and the rest of the administrative, judicial and legislative affairs are not allowed to be questioned, let us ask if this is true citizenship. We recognise this is 'pseudo-citizenship' of lost-country slaves.

Turning to the exclusion of the period of Japanese occupation in the calculation of the residential requirement the MCP asserted that this had been proposed deliberately to sweep away the "meritorious" war record of the Resistance against the Japanese and to rob of citizenship thousands of MPAJA fighters:

The period of the Japanese occupation is the most miserable period of the people of Malaya ... It is also the most glorious period as we have triumphed over our enemy. Then, why is this period not included? Is it that the people who gave meritorious services against the fascists are to be left out? Is it to exclude those thousands of anti-Japanese personnel and communists so that they may be

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118. Ibid.; see also MDU statement on citizenship, Malayan Standard 17 Apr. 1946 in Cheah Boon Kheng, "The Malayan Democratic Union 1945-1948", M.A. thesis, University of Malaya, 1974, p. 334.

denied their citizenship? Or is it to discredit this period, so that the guilt of those collaborators and 'running dogs' may be effaced, and their right of citizenship be allowed?

The imposition of the ten year period was also unjust as it would exclude from citizenship many Chinese who came to Malaya after 1931 and who had been intimately involved in her construction. As for the language requirement and the sole discretion granted to the Governor in the area of naturalisation, the MCP protested that such strictures were undemocratic and represented "an attempt to establish a puppet system to deceive the people." In its own counter-proposals, the MCP called for citizenship to be open to persons over eighteen years of age, with the residential qualification reduced to five years (including the three-and-a-half years of Japanese occupation), the abolition of the language requirement for naturalisation, and the extension of "civic rights" of election and participation in politics to all Malayan Union citizens.<sup>119</sup>

Of the Malay organisations, only the MNP submitted full proposals. For persons qualifying for automatic citizenship under birth or residence the MNP recommended that a "sufficient knowledge" of the Malay and English languages should be demanded. Revealing its "Indonesian" sympathies the MNP urged also that the birth qualifications should not be restricted to the Malayan Union and Singapore but extended to cover persons born in any part of the Malay Archipelago. If the proposals required a Malay by becoming a Malayan Union citizen to lose his Malay nationality the MNP would then be opposed to the whole scheme. In this connection, the MNP proposed that a native-born Malay should not be asked to swear allegiance to the Union Government since it was clear that he had no choice of allegiance to any Government other than that of the Malayan Union - a natural allegiance to his only native land. Other Malay organisations, however, boycotted Gent's invitation to submit their

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119. "Joint Criticism and Proposals of the S'pore City Committee and the Johore State Committee of the MCP on the Rights of Citizenship", 1 May 1946, BMA/HQ S Div 311/45.

views; following UMNO's lead they argued that it would be fruitless to debate about citizenship when the main problem of British "annexation" had not been resolved.<sup>120</sup> As Dato Onn rationalised, Gent's invitation of 18 April was "purposely made to appear vital in order to cover the acts of 1945/46 in transferring the country to the Crown":<sup>121</sup> "The question of citizenship", he declared, "is one that does not cause the Malays any anxiety."<sup>122</sup>

On 8 May an ad hoc Committee was appointed by Gent to "consider and make recommendations" on the qualifications appropriate to Malayan Union Citizenship. Chaired by Dr. William Linehan, a senior MCS officer, the Committee included the nine unofficial members of the Advisory Council, three representatives from the MCS and a nominee each from the Singapore Government and the Eurasian associations.<sup>123</sup> Unrepresented again were the Malays whose members had boycotted the Advisory Council. Although the MNP had initially accepted the invitation to nominate one of its members to the Committee<sup>124</sup> it subsequently changed its mind, following UMNO's lead, to effect a complete boycott by the Malays on the citizenship discussions.<sup>125</sup>

Linehan's Committee opened discussions on 16 May with W.G.C. Blunn, an unofficial member of the Advisory Council, expressing unease at the simple birth criterion for qualification and argued that only those with a stake in the country, such as "immovable property", or with at least one parent who was Malaya-born should be admitted to citizenship under

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120. "Summary of Views" in "Interim Report ...", CSO 474/46.

121. Gent to Hall, 26 Apr. 1946, CO 537/1528 no. 50823 Pt I.

122. "Summary of Views" in "Interim Report ...", CSO 474/46.

123. The nine unofficial members of the Advisory Council were Colonel H.S. Lee, Dr. Ong Chong Keng, Dr. Tan Cheng Leng, Dr. (Miss) Soo Kim Lan, Tan Eng Chye, W.G.C. Blunn, S.B. Palmer, H.H. Abdool Cader, and M.L.R. Doraisamy Aiyer. The MCS was represented by A.C. Jomaron, W.A. Gordon-Hall, and A. Williams. E.C.S. Adkins was the nominee from Singapore and C.F. Gomes was nominated as the representative of the Eurasian associations.

124. Gent had extended the invitation to the MNP partly because "it was the only reaction I have received from any Malay party" and also in the hope that "this may spur other Malay organisations to open discussions." Gent to Hall, 26 Apr. 1946, CO 537/1528 no. 50823 Pt I.

125. The MNP had been forced to change its mind by the tide of Malay resentment against the Union and also because of the forthcoming UMNO Conference on 11 May in Batu Pahat in which its representatives would be attending. See Cheah Boon Kheng, Red Star Over Malaya, (Singapore, 1983), p. 287.

this category.<sup>126</sup> Among the Chinese, Blunn observed that there still existed a strong sense of loyalty to their national homeland: "At least 80 per cent of the Chinese population", he surmised, "do not want Malayan citizenship."<sup>127</sup> On the security perspective, Blunn pointed out the "potential danger" of a person born in the Malayan Union but "coming back at some distant future date to promote the interests of some foreign country"; many of the Japanese in Malaya and Singapore, for instance, were British subjects and "fought against us". Blunn's proposal, however, did not find favour with the majority of the Committee members who felt, with Colonel Lee, that this would discriminate unfairly against those with a stake in the country but whose parents were not Malaya-born. Moreover, as A. Williams, one of the MCS representatives, explained, the one-parent requirement was not a necessary principle in British nationality law. A further recommendation by A.C. Jomaron, also of the MCS, that an additional formal act, such as registration, be introduced was similarly rejected not only because of the administrative problems involved in registering some five million people but also because, as Linehan argued, there were doubts as to whether it would be "reasonable to call upon a Malay peasant to do something active before attaining citizenship?" The Committee finally elected to retain the birth criterion in Cmd. 6749<sup>128</sup> without any further qualification.<sup>129</sup>

Agreement was also generally expressed with regard to the residential and allegiance criteria in the White Paper's proposals although the Committee heeded the advice that the period of residence (ten years out of fifteen) should be calculated from the date of implementation of the Order-in-Council and not from 15 February 1942. Since the latter date was presumably to ensure that the interests of the people who evacuated before the fall of Singapore would not be prejudiced the Committee agreed that some provisions should be made ensuring that, for evacuees, the period of

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126. "Proceedings of the first meeting of the Committee appointed by His Excellency the Governor, Malayan Union, to consider and make recommendations upon the matter of the qualifications appropriate for Malayan Union Citizenship", 16 May 1946, Sir Theodore Adams Papers.

127. See Blunn's views in "Summary of Views" in "Interim Report ..." Ibid.

128. The relevant clauses are 23 (a) and (c).

129. "Proceedings of the first meeting ...", 16 May 1946, Sir Theodore Adams Papers.

Japanese occupation could be taken into account in calculating the residential period requirement for citizenship. Also accepted was the insertion of a new condition - the declaration of an intention to settle permanently in the country, which, as Blunn argued, was "fundamental" in putting into reality HMG's policy of extending political rights only to those truly Malayan in spirit.

When discussions steered towards the thorny problem of dual nationality or dual citizenship, and, in particular, whether a Malayan Union citizen should be required to renounce his other nationality or citizenship, as otherwise the existence of separate and competing identities would invariably weaken the objective of unity and loyalty to the Union, the Committee found itself unable to offer any definite recommendation. British subjects, the Committee was told, were in no hurry to exchange their British nationality for an unspecified "citizenship". Nor was it possible for British or Chinese nationals to divest themselves of their British or Chinese nationality under international law, so that, if Malayan Union Citizenship was actually acquired by a British subject who was also a Chinese national, the anomalous situation of a person possessing "triple citizenship" would arise.<sup>130</sup>

When the Committee met again on 1 June it examined the arguments for admitting Singapore residents to Malayan Union citizenship: the close ties between the two territories; the undesirability of prejudicing, by the exclusion of Singapore, a possible future fusion of the Peninsula and the Island; and the existence of a large number of Singapore residents who had business interests in the Union. Against these the Committee considered the following reasons for exclusion: first, the economic interests of both territories were entirely different - since there might therefore be a conflict of interests between Singapore and the Union, Singapore residents should not be given a political voice in framing the destinies of the Union unless Singapore fully entered the Union; second, there was furthermore no justification for

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130. Ibid. A British subject could only divest himself of his British status in only one instance. In 1870 a convention was signed between Britain and the United States by which both Governments agreed that American citizens or British subjects who had become naturalised in Britain or America respectively were to be regarded as having renounced their original nationality.



giving Singapore privileges in the Union in return for which she accorded no reciprocal advantages to the Union; third, it was also maintained that the ultimate fusion of Singapore and the Union, if that event were ever to take place, would not be prejudiced by the present exclusion of Singapore from the scope of Union Citizenship. A compromise proposal granting Singapore residents "latent" Malayan Union Citizenship which could only be "activated" after a period of residence in the Peninsula was rejected as offering no advantage to either territory. The Committee then voted unanimously (with the Singapore representative abstaining) to recommend the exclusion of the Island from the scope of Union membership. The argument which proved decisive was succinctly summed up by Williams: "We naturally welcome the time when Singapore can come in, but until such time comes it seems to me that to give citizenship to people who are not here and have no intention of coming here does not really make sense." As an after-thought, Blunn surmised that a concession on the Singapore issue might indeed make "a good gesture to the Malays".<sup>131</sup>

On the subject of citizenship by naturalisation, the Committee argued for more stringent conditions by raising the period of residence immediately before application from one to two years so that the total residential period in the Union would be increased to six instead of five years during the last eight years before application. The declaration of intent to reside in the Malayan Union was also retained although augmented to emphasise the resolve to settle "permanently". Opinion, however, was more divided on the advisability of the language requirement with two members of the Advisory Council, Abdool Cader and Doraisamy Aiyer, objecting vigorously that this was unnecessary under the Straits Settlements naturalisation law, that it would discriminate against many "good Indians and Chinese who do not know either Malay or English" and that, on grounds of principle, it would be inappropriate to constitute Malay as one of the common languages when citizenship was not confined only to the Malay community. In reply the point was pressed that the language criterion was an integral requirement of most naturalisation laws, including those in Britain and the United States where knowledge of English was essential. A common language was also indispensable if

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131. "Proceedings of the second meeting of the Committee appointed by His Excellency the Governor, Malayan Union, to consider and make recommendations upon the matter of the qualifications appropriate for Malayan Union Citizenship", 1 and 2 Jun. 1946, Ibid.

Malayans were to be united. And, apart from the fact that it was "an easy language to learn", Malay had also been, observed Linehan, the "lingua franca not merely of the Malays but of everybody who has resided in the Malay Archipelago and has traded there for centuries, and there is nothing ... unfair in the insertion of this language clause." Only grudgingly did the Committee narrowly vote in favour of the language qualification. So as not to impose "too many conditions" before applicants for naturalisation, it was agreed, however, to drop the "good character" clause as a concession.

As before, the problem of dual nationality continued to vex the Committee and again eluded any satisfactory solution. One way out of the impasse, suggested W.A. Gordon-Hall, a barrister with the MCS, was to arrive at a precise definition of "citizenship": if it represented only a "local status", which could be superimposed over British, Chinese or any other nationality, then the question of divestment of nationality would not arise; conversely, if it was considered that Malayan Union Citizenship was in fact a "national status" - in the same way as American citizenship was the national status in America - then the problem of divestment, with all its attendant intractability, could hardly be avoided. However, given the White Paper's stipulations of oaths and affirmations of allegiance, Linehan opined that the Committee must hitherto proceed on the assumption "that what we are trying to carve out is the framework for a national status."<sup>132</sup> With no definite solution in sight, the Committee resolved only to record its disapproval of the principle of dual nationality - and, as Gordon-Hall suggested, "leave it to the legal authorities and the Government to decide how to put this into effect."<sup>133</sup>

The following morning the Committee considered a revised draft Order-in-Council forwarded earlier by Linehan on 22 May, shortly after its first meeting, which recurred to the provisional acceptance of birth as a sufficient condition for citizenship by recommending that persons born in the Malayan Union, other than Malays or aborigines, should have

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132. Linehan's interpretation probably followed Gent's own perception of the issue. Before leaving for Malaya, Gent had expressed himself "strongly in favour of a conception of 'nationality' on the grounds that this alone would present itself to the Chinese as a commanding alternative to Chinese nationality." Minute by Bourdillon, 3 May 1946, CO 537/1542 no. 50823/15 Pt I.

133. "Proceedings of the second meeting ...", 1 and 2 Jun. 1946, Sir Theodore Adams Papers.

either a parent who was a citizen or born in the country. Linehan's effort to impose more stringent control, however, was again viewed with disapproval by the majority of the Committee, who objected to its discrimination against the non-Malays, and after it was established that the estimated number of Chinese and Indians who would qualify under this category would amount to only 570,204 and 158,840 respectively - hardly sufficient to "swamp" the Malay majority of 2,216,650<sup>134</sup> - the Committee saw no reason to reverse its previous judgment that birth represented a sufficient condition. As Colonel H.S. Lee remarked, "even if every race is granted Malayan Union citizenship by birth the Malays will never be swamped."<sup>135</sup>

The Committee's interim report, summarising the main recommendations, was eventually approved during its final session on 28 June<sup>136</sup> and submitted to the Colonial Office on 2 July. Most of its proposals, including the exclusion of Singapore residents and the recommendation that the ten year residence criterion should not be a sufficient condition for automatic citizenship, were readily accepted by Hall, although, for qualification by birth, the Colonial Secretary suggested an additional condition of "ordinary residence" for those born in the Union territories before the implementation of the Order-in-Council since otherwise "there will be nothing to prevent persons e.g. Chinese who happen to have been born in the territories comprising the Union, but who have no real connexion with the country, from returning after, say, forty years and claiming full citizenship rights."<sup>137</sup> On the harrowing problem of dual nationality, Bourdillon opined that, to avoid confusion, "citizenship" should not be equated with "nationality"

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134. The figures were calculated on the basis of the census report for 1931 which had stated that 91.6, 29.1 and 21.1% of the Malays, Chinese and Indians respectively were both born and resident in the "Union" territories. If these percentages were applied to the estimated Malay, Chinese and Indian population on 30 June 1941 (2,199,931, 1,781,333, 684,364 respectively) the number of people born in the "Union" area would be: Malays - 2,015,136; Chinese - 518,367; Indians - 144,400. If it was further assumed a net increase of 10% for the period 1941-1946 on the latter figures, the number of residents born in the Malayan Union would be correspondingly 2,216,650, 570,204 and 158,840 in 1946. Ibid.

135. Ibid.

136. "Proceedings of the third meeting of the Committee appointed by His Excellency the Governor, Malayan Union, to consider and make recommendations upon the matter of the qualification appropriate for Malayan Union Citizenship", 28 Jun. 1946, Ibid.

137. Hall to Gent, 2 Aug. 1946, CO 537/1530 no. 50823 Pt III.

but with "something less than nationality which will none the less contribute an effective unifying influence."<sup>138</sup> As Hall put it: "Malayan Union Citizens will continue to be British Protected Persons within the Empire, and will have no independent nationality. Persons who are British subjects and become Malayan Union Citizens will continue to be British subjects, and similarly foreign nationals will remain foreign nationals. The problem of dual nationality will not arise."<sup>139</sup> On the whole the Colonial Office was pleased with the "very thorough and valuable document". Although "fully representative" of authoritative non-Malay opinion, the Linehan report, however, took no account of Malay opinion.<sup>140</sup> As Gent observed, the final recommendations, framed after Malay participation, "may differ substantially from recommendations in the Interim Report."<sup>141</sup>

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138. Minute by Bourdillon, 1 Aug. 1946, Ibid.

139. Hall to Gent, 2 Aug. 1946, Ibid.

140. Ibid.

141. Gent to Hall, 14 Jun. 1946, CO 537/1542 no. 50823/15 Pt I.

## CHAPTER EIGHT

THE ANGLO-MALAY WORKING COMMITTEE:  
JULY TO DECEMBER 1946

The Malay representatives are in a high state of nervousness and it is not impossible that they may try and go back on important points when the Committee reassembles.

Edward Gent, 4 November 1946.

The Malay proposals for the onset of constitutional negotiations were submitted on 24 July "cast in such extreme terms".<sup>1</sup> Drawn up by Roland Braddell, legal adviser to the UMNO, the Malay proposals envisaged a "Federation of the Malay States" eventually replacing the Malayan Union. The new "Central Federal Government", embracing both an Executive and Legislative Council, would be presided over by a "High Commissioner". Federal and State subjects would be clearly defined: residue powers would be vested in each State by the Ruler who would be assisted by an "Executive Council", headed by the Ruler himself, and a deliberative "Council of State", with legislative powers, which would be presided over by a Malay Mentri Besar or Chief Minister. A British "General Adviser" would serve as an ex-officio member in both Councils. Above all, the Rulers would remain "independent sovereigns" although they would continue to ask and act upon the advice of the General Adviser in all matters of administration other than those affecting the religion and custom of the Malays.

The Rulers rejected the conception of common citizenship but would be prepared to accept as "subjects" four categories of people: natural born subjects and "persons who habitually speak Malay, profess the Mohammedan religion and conform to Malay customs"; persons one of whose parents was a natural-born subject; persons naturalised under agreed legislation provided a prescribed oath of allegiance to the Ruler was taken; and persons born within the territories of any of the Malay States provided they refrained from exercising any political rights until they had attained majority and had taken a prescribed oath of

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1. Hall to Gent, 27 Jul. 1946, CO 537/1530 no. 50823 Pt III.

allegiance .<sup>2</sup>

The Colonial Office was disappointed at the uncompromising nature of the Rulers' demands. If this had been done deliberately to permit concessions later on, Hall counselled that the attitude on the Government side must equally be that of "keen negotiators". The impending discussions, consequently, could only be "exploratory" without commitment on any specific point.<sup>3</sup> To Bourdillon, the proposals were clear evidence once again of the Sultans' "separatist leanings" and their attempts to "erect a complex and cumbrous State machinery, going beyond anything which existed in the past." The recognition of the Rulers as "independent sovereigns" was clearly "unacceptable".<sup>4</sup>

On 2 August, Hall cabled the Governor: "At all costs we must see that the principle of a strong Central Government, which is at the root of our whole policy, is not endangered." Provided a comprehensive list of Central subjects could be established he would not be averse to leave the residue for "concurrent legislation" with overriding authority, nevertheless, resting ultimately with the Central Legislature. If absolutely necessary, however, Hall would be willing to concede a limited list of State subjects but there could be no question of accepting a limited list of Central subjects with the residue coming under State control.

On the "fundamental" principle of common citizenship Hall was not hopeful of any agreement unless the Rulers retreated from their "extreme" position. He urged that discussions should proceed on the basis of the Linehan report which had already reflected the non-Malay views on the subject. For the moment, he would agree only to the exclusion of Singapore residents from citizenship and affirm that only persons with

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2. Gent to Hall, 25 Jul. 1946, CO 537/1529 no. 50823 Pt II. Writing to Hone on 27 July Braddell explained that the Rulers had been very insistent that the term "Malay States" should appear in association with "Federation" if only to establish "very firmly the fact that the Malay States had resumed their entities under the Rulers." The term "General Adviser", employed in the 1914 Johore Treaty, had been carefully chosen to "remove the old temptation [for the Adviser] to regard himself as a British executive officer" as well as to indicate that while the Central Government was "British" local administration was "State". The use of the phrase "Council of State" instead of State Council was chiefly to remove difficulties for Johore which would have to amend the English translation of its constitution if any other term was employed. Braddell to Hone, 27 Jul. 1946, CO 537/1530 no. 50823 Pt III.
  3. Hall to Gent, 27 Jul. 1946, Ibid.
  4. Minute by Bourdillon, 1 Aug. 1946, Ibid.

real allegiance to the Union would become citizens.

Equally vital was the principle that jurisdiction must be retained by HMG. Since the Rulers' proposals amounted to "no less than tearing up the MacMichael Agreements" he found it impossible to contemplate such a step which might well be misconstrued as an admission that the Treaties had been signed under duress. Hall however would be prepared to negotiate a new agreement which would (a) set out the agreed principles for the new constitution, (b) provide HMG with a measure of jurisdiction to give effect to those agreed principles, including the citizenship provisions, and thereafter exercised only with the consent of the Central Legislature and (c) declare, if necessary, that the Rulers would continue to be recognised as independent "sovereigns"<sup>5</sup> and the Malay States were not part of HMG's dominions but would continue to be territories under the Crown's protection.<sup>6</sup>

Gent, however, saw "no prospect" of holding on to the MacMichael Agreements. Reminding the Secretary of State that an assurance about the possibility of "replacing" the MacMichael Agreements had in fact been communicated to the Rulers under his instructions of 18 July, Gent warned that "Without such an assurance, I can offer no hope that our efforts to reach agreement can be successful."<sup>7</sup> Given Hall's earlier undertaking, it would "clearly be impossible for the Secretary of State to go back upon them."<sup>8</sup> Reluctantly, Hall conceded; he urged the Governor, however, to press only for an "amendment" of the Agreements, if possible, rather than their complete replacement: any new Treaty, in the final analysis, must still embrace the principle that HMG must ultimately possess sufficient jurisdiction to avoid "the cumbersome process of negotiating fresh agreements every time jurisdiction is to be exercised."<sup>9</sup> Paskin, however, was not optimistic: "[W]e are not likely to get away with anything less than a new agreement which does in fact supersede the MacMichael Agreements."<sup>10</sup>

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5. It would have to be made clear, however, that this was not tantamount to saying that 'sovereignty' would heretofore rest with the Ruler of that State.

6. Hall to Gent, 2 Aug. 1946, CO 537/1530 no. 50823 Pt III.

7. Gent to Hall, 6 Aug. 1946, Ibid.

8. Minute by Paskin, 8 Aug. 1946, Ibid.

9. Hall to Gent, 9 Aug. 1946, Ibid.

10. Minute by Paskin, 8 Aug. 1946, Ibid.

In preparation for the constitutional discussions an Anglo-Malay Working Committee, in the meantime, had been set up on 25 July, consisting of representatives from the Government, UMNO and the Rulers.<sup>11</sup> The first meeting opened cautiously on 6 August with Newboults reminding all parties that the dialogue committed no one and that the first task was to settle the functions of the prospective Central and State Governments. It would also be necessary to keep in mind the interests of all communities in Malaya and that, in future, a public discussion would be necessary.<sup>12</sup> For the next four days the Committee devoted its attention to the consideration of the Federal Legislative list. Prompted by Dato Onn, the Malay representatives had in the meantime requested, and secured, the Committee's undertaking on 7 August to keep the negotiations confidential: public disclosure would only be contemplated after the new proposals had been considered by the Secretary of State and had obtained his "unanimity of agreement".<sup>13</sup> By 8 August, Gent reported that "satisfactory headway" had been made on the list of Central subjects. The following day an amended list was considered by the legal members of the Committee (Braddell, O'Connor, Williams, and Hone) and reviewed again by the full Committee on 10 August. The list finally agreed, including some 142 Federal subjects, was, as Gent happily reported, "very comprehensive".<sup>14</sup>

On 15 August the Working Committee broached the "thorny"<sup>15</sup> subject of citizenship, with the Malay members contending that the Colonial Office's initial "dictation" on the issue had left "little room for negotiation on a matter which was of the utmost importance to the Malays." However, assured by the Secretary of State's recent remarks that political rights would only be extended to those who regarded Malaya as their real home and object of loyalty, and that the special position

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11. Representing the Government were: A.T. Newboults, K.K. O'Connor, W.D. Godsall, W. Linehan, A. Williams and D.C. Watherston as Secretary. UMNO was represented by: Dato Onn b. Jaafar (Johore) and Dato Abdul Rahman b. Mohammed Yasin (Johore). The Rulers' representatives were: Raja Kamaralzaman b. Raja Mansur (Perak), Haji Mohammed Sheriff b. Osman (Kedah), Dato Nik Ahmed Kamil b. Mahmud (Kelantan) and Dato Hamzah b. Abdullah, (Selangor). In addition, the Committee's meetings were also attended by: Hone (for MacDonald), Adams (for the Rulers) and Braddell (for UMNO).

12. Minutes of the Constitutional Working Committee (henceforth CWC), 6 Aug. 1946, MU 294/A/46 Vol. I.

13. Minutes of the CWC, 7 Aug. 1946, Ibid.

14. Gent to Hall, 23 Aug. 1946, CO 537/1530 no. 50823 Pt III.

15. Gent to Hall, 15 Aug. 1946, Ibid.



of the Malays would be safeguarded, the Malay members agreed to forward their memorandum on citizenship as a basis for discussion.<sup>16</sup> The Malay memorandum proposed that citizenship should be confined only to British subjects and the Malay subjects of the Rulers. To accommodate persons "who are truly Malaya minded" the Malays were prepared, however, to introduce two other new categories: British Protected Persons after a period of residence to be agreed, and persons "domiciled" after affirming their intention to have Malaya as their home provided they had also applied, were of good conduct and spoke either Malay or English. Braddell explained that the object was primarily to safeguard the position of the Malays. It was not sufficient, he added, to simply consider the total number of Chinese and Indians who might qualify for citizenship against the figures for the Malays. The introduction of British Protected Persons would allow more control to be exercised over such persons and, for this reason, it was therefore important that its definition should not be too broadly drafted but restricted, in the first place, to include only the subjects of the Rulers, comprising mainly Malays<sup>17</sup> born or resident in the Malay States, and persons one of whose parents was a subject of the Ruler. As for other categories of persons for consideration as British Protected Persons, the legal members of the Committee were instructed to prepare a draft for discussion at the next meeting. Summing up the day's proceedings, Gent observed that the discussions, which had begun on a "severely critical" note by the Malay side, had been steadily "brought round by degrees."<sup>18</sup>

The following day, after a disconcerting report by K.K. O'Connor (Attorney-General, Malayan Union) that narrowing the definition of British Protected Persons, which was recognised internationally, to that of an "internal status" as proposed in the Malay memorandum was fraught with legal difficulties, the Working Committee agreed to defer further discussion on this category until the views of the Secretary of State - who might conceivably want to "throw the net much wider" - were known. However, the other categories, with slight modifications, were generally

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16. Memo. "A Basis for Discussion", 15 Aug. 1946, MU 294/A/46 Vol I.

17. A "Malay" was defined as an "aborigine" and person who habitually spoke Malay, professed the Muslim religion, and conformed to Malay custom as well as person of any race who had become naturalised in a Malay State, Ibid.

18. Gent to Hall, 15 Aug. 1946, CO 537/1530 no. 50823 Pt III.

acceptable: automatic citizenship would be conferred only on the subjects of the Rulers and British subjects although in the case of the latter born before the implementation of the new Treaty - in line with Hall's instructions - some residential qualifications were additionally necessary. All other candidates not in these two categories, including British subjects born outside the "Federation" territories, would have to apply for citizenship as well as fulfill the conditions of "good character", command of the Malay or English language, assurance of intention to settle and an oath of allegiance.<sup>19</sup> On the whole, the first ten days' discussions, reported Gent, had been "frank and friendly", albeit interposed by "difficult moods". As the Working Committee adjourned until 6 September, in view of the Malay fasting month and the approaching Hari Raya Puasa festival, Gent remained hopeful that grounds for a "satisfactory settlement" could be found. Much would depend, Gent surmised, on the attitude of the Malay members when the Working Committee reassembled and the extent to which they had been able to carry UMNO and the Rulers with them on the "conclusions" so far reached. Already, it had been felt by the Malay representatives that, "in compromising with our views on many important matters, too much has had to be conceded by their side."<sup>20</sup>

The Colonial Office was gratified at the "very good progress" achieved on the principle of a strong Central Government. "The list", Bourdillon minuted, "includes all the subjects which the Secretary of State, at an earlier stage, laid down as being essentially 'central', besides a number of others ... [T]here seemed to be no important subjects of any kind which are not placed under central control." On the question of citizenship, Bourdillon closely observed that, although the Malays had been initially unwilling to admit Chinese, they appeared "likely to modify this attitude" and "progress now appears to be possible". Only the issue of HMG's jurisdiction, which would "undoubtedly prove the most difficult to solve", had not been discussed. Generally speaking, there seemed to be grounds for "cautious satisfaction".<sup>21</sup>

When the Working Committee reassembled on 6 September, it concentrated, during the next few days, again on the subject of citizenship. On 9 September the Committee accepted O'Connor's redraft of the

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19. Minutes of the CWC, 16 Aug. 1946, MU 294/A/46 Vol I.

20. Gent to Hall, 23 Aug. 1946, CO 537/1530 no. 50823 Pt III.

21. Minute by Bourdillon, 29 Aug. 1946, Ibid.

citizenship clauses providing for three categories of "Federal" citizens: (a) British subjects and subjects of the Rulers born and "permanently resident"<sup>22</sup> in the "Federation"; (b) any person applying for citizenship who satisfied the High Commissioner as to his birth in the "Federation" and local residence for ten out of the fifteen years preceding his application, his "good character" and "adequate knowledge" of the Malay or English language; (c) any other applicant with a longer residential period of fifteen out of twenty years, including the character and language requirements. Additionally, all applicants would have to make a declaration of permanent settlement and take the citizenship oath.<sup>23</sup>

The title of the new "Federation" had in the meantime also evoked strong objections from the Malays who refused any caption with the word "Malayan" or "Union". The suggestion of "Malayan Federal Union" was opposed by Adams who argued that it "did not put the necessary emphasis on the sovereignty of each individual part of the territory" and that "Federal Union", in Malay, involved contradictory terms.<sup>24</sup> The alternative of a "Malayan Federation", proposed by O'Connor, was similarly opposed by Dato Onn who asserted that the Malays would strongly object to being described as "Malayans", an expression which had come to mean people who had some association with Malaya but did not include Malays. Braddell's recommendation of "Federation of Malaya" was, however, "tolerable"<sup>25</sup> although Newbould had doubts as to whether it might be acceptable to Singapore.<sup>26</sup>

The Working Committee centred its attention for the next few days on the equally vital question of finance for, as Bourdillon later commented, in the last resort, "whoever had the money has the power".<sup>27</sup> Expectedly, once the discussions broached the latent difficulties in the allocation of powers between the Central Legislature and the State Councils, the Malay members began to "show fight"<sup>28</sup> on the issue and "some difficulty was experienced".<sup>29</sup> Johore and Kedah, which had relatively large assets and no loan liabilities, were against the idea of a "common pool" and the acquisition of State assets by the Central Government. They were,

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22. A person was deemed to be permanently resident when he had completed a period of fifteen years' residence, whether completed before or after the entry into force of the new Agreement. See Minutes of CWC, 9 Sep. 1946, MU 294/A/46 Vol I.

23. Ibid.

24. e.g. Persatuan: association, society, union; Persekutuan: association, federation.

25. Gent to Hall, 14 Sep. 1946, CO 537/1530 no. 50823 Pt III.

26. Minutes of CWC, 9 Sep. 1946, MU 294/A/46 Vol I.

however, subsequently pacified with the compromise that they would be given preferential "consideration" in the allocation of funds for post-war rehabilitation of their States. Reporting to the Colonial Office on 14 September, Gent observed that the progress achieved thus far had indeed been "encouraging" although the "extreme sensitiveness" of the Malay members to being presented with a fait accompli in the Malayan Union had provoked them into "prolonged outspoken display of resentment" against Britain's alleged "dictatory" attitude. Nevertheless, assured Gent, both Adams and Braddell had been "very useful influence in discouraging such feeling."<sup>30</sup>

The Governor's latest assessment heartened the Colonial Office. It confirmed that the earlier progress on the conception of a strong Central Government had indeed been "maintained and consolidated". On the financial question, the Malay negotiators had "crossed the Rubicon by accepting the conception of the common pool."<sup>31</sup> Lloyd urged that, given the Malay concessions, some flexibility on the title would be desirable. "While we should not ourselves use language which implied that the Secretary of State has accepted the idea of federation", Lloyd argued, "I hope that it will not be regarded as necessary now to challenge that conception."<sup>32</sup> Creech-Jones, however, disapproved of "Federation of Malaya" which suggested to him "a retreat" from Union but, as he could not come up with a "face-saving" title, he proposed that Gent be advised to consult his advisers for a satisfactory solution.<sup>33</sup>

That the Malays were prepared to discuss citizenship was also encouraging although the Working Committee's proposals still contained "far too many gaps"<sup>34</sup> and fell "far short" of affirming HMG's principle of "common citizenship". Category (a), in particular, contained practical difficulties: any attempt to define "subjects of the Rulers" would only highlight "the anomalous position" whereby immigrants from the NEI would

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27. Minute by Bourdillon, 17 Sep. 1946, CO 537/1530 no. 50823 Pt III.

28. Ibid.

29. Gent to Hall, 14 Sep. 1946, Ibid.

30. Ibid.

31. Minute by Bourdillon, 17 Sep. 1946, Ibid.

32. Lloyd to Gater, 23 Sep. 1946, Ibid.

33. Minute by Creech-Jones, 24 Sep. 1946, Ibid.

34. Minute by Bourdillon, 17 Sep. 1946, Ibid.

be automatically regarded by the Rulers as their subjects immediately upon entry, whereas Chinese immigrants, however long resident in Malaya, would not be similarly considered. Moreover, Chinese born in Penang or Malacca would qualify for citizenship under category (a) whereas Chinese in the Malay States, though equally belonging to the country in every real sense, would not so qualify. Not only would this "fundamental reversal of policy" be "impossible to defend" in Parliament, it would also almost certainly provoke "an outcry" from the Chinese and heighten "racial bitterness which ... is our first object to avoid." As they stood, the citizenship proposals were "unacceptable" and a "less restrictive attitude" from the Malays was desirable.<sup>35</sup> On the subject of jurisdiction, however, no development had been reported by the Governor. On balance, Bourdillon surmised that "one of the three main battles (that of the strong Central Legislature) has been won, though the same can by no means be said of the other two."<sup>36</sup>

At Newbould's request, Dato Onn on 14 September submitted the Malay recommendations for the detailed composition of the proposed Legislative Council which envisaged a large membership of sixty one and an unofficial majority of one (see Table 8:1 below):<sup>37</sup>

TABLE 8:1

MALAY PROPOSALS FOR THE COMPOSITION OF THE LEGISLATIVE COUNCIL

Official and Unofficial representation	Total
Official members:	
(1) Ex-officio	3
Chief Secretary	
Attorney-General	
Financial Secretary	
(2) Nominated	27
General Officer Commanding	
9 Advisers in the Malay States	
2 Resident Commissioners in Penang and Malacca	
9 Senior Malay officials from the States	
Director of Education	
Director of Medical Services	
Director of Public Works	
General Manager of Railways	
Commissioner for Labour	
	<u>30</u>

35. Hall to Gent, 24 Sep. 1946, Ibid.

36. Minute by Bourdillon, 17 Sep. 1946, Ibid.

37. Minute of CWC, 14 Sep. 1946, MU 294/A/46 Vol I.

## Unofficial members:

31

- 9 Representatives from the State Councils
- 2 Representatives from the Settlement Councils
- 9 Malays
- 5 Chinese
- 2 Indians
- 1 Eurasian
- 3 Europeans

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 Source: MU 294/A/46 Vol I

From the outset Newbould assured the Committee that, from the Government side, there were no strong objections in principle to an unofficial majority<sup>38</sup> although he felt that a total membership of sixty one was too large. As he was also personally in favour of a "substantial" unofficial majority,<sup>39</sup> Newbould proposed that the number of nominated officials be reduced further by excluding the nine Advisers and the two Resident Commissioners who would "find it difficult to attend the frequent meetings of the Legislative Council." He wondered if the nine senior Malay Officials could also be similarly reallocated since their presence, combined with another twenty Malay unofficials, as Braddell also pointed out, would draw "undue attention to [the] large Malay bloc" in the Council - more than double the size of the non-Malay unofficial representation. A revised list was finally accepted by the Committee which reduced by more than half the size of the original official membership (see Table 8:2):

TABLE 8:2

REVISED COMPOSITION OF OFFICIAL MEMBERSHIP IN THE LEGISLATIVE COUNCIL

Official representation	Total
Ex-officio:	3
Chief Secretary	
Attorney-General	
Financial Secretary	

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38. Only O'Connor expressed misgivings about an unofficial majority. Minutes of CWC, 14 Sep. 1946, Ibid.

39. See, for instance, Chapter 4, p.107.

Nominated:

11

Senior Officer of Services<sup>40</sup>

2 Advisers in State<sup>41</sup>

Economic Adviser

Secretary for Chinese Affairs

Commissioner for Labour

Director of Education

Director of Medical Services

(The remaining 3 to be selected from the following:)

Director of Agriculture

Director of Public Works

Commissioner of Lands

Commissioner for Social Welfare

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Source: MU 294/A/46 Vol I.

Turning to the selection of the unofficial members, both Newbould and O'Connor argued that it would be generally desirable to "get away as far as possible from purely communal representation." Referring to the Donoughmore and Soulbury Commission Reports<sup>42</sup> on the Ceylon constitution, Newbould observed, for instance, that neither of them, in accordance with the "general trend of modern opinion", favoured communal representation.<sup>43</sup> To a suggestion by Watherston, the Committee agreed that, so far as possible, the non-Malay unofficial representation on the Council should be secured on a more "functional" rather than "racial" basis as indicated in Table 8:3 below. Partly to ensure that the interests of the States and Settlements would be sufficiently represented, and partly to preserve also good Federal-State relations by allowing the States some participation in Federal matters, the Working Committee recommended that the "most appropriate way" of doing so was by including the Presidents of the various State and Settlement Councils as

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40. He replaced the GOC who might find it inappropriate to attend the proceedings of the Legislative Council if his headquarters was moved elsewhere (say, Singapore) under the new military arrangements. See Minutes of CWC, 14 Sep. 1946, MU 294/A/46 Vol I.

41. While it was not desirable for all 9 Advisers to be appointed, it was argued that the Council would be poorer if deprived of the experience of them all. As a compromise, 2 were selected. See Ibid.

42. See Ceylon: Report of the Special Commission on the Constitution, Cmd. 3131, (Jul. 1928) and Ceylon: Report of the Commission on Constitutional Reform, Cmd. 6677, (Sep. 1945).

43. Minutes of CWC, 14 Sep. 1946, MU 294/A/46 Vol I.

TABLE 8:3

## REVISED COMPOSITION OF UNOFFICIAL MEMBERSHIP IN THE LEGISLATIVE COUNCIL

Unofficial representation by functional and racial interests				
	European	Chinese	Indian	Total
Commerce	1	1	1	3
Planting	1	1	-	2
Mining	1	1	-	2
Labour	-	1	1	2
Education <sup>44</sup>				1
Eurasian				1
Unallocated <sup>45</sup>				1
	3	4	2	12

Source: MU 294/A/46 Vol I.

unofficial members. Dato Onn, however, argued that the Malay rakyat "would not regard himself as represented by Presidents of the State and Settlement Councils" and pressed for an additional eleven Malays to reflect the views of these local Councils. Both Newbould and O'Connor, however, balked at the prospect of giving the Malays such a huge majority in the Council. O'Connor asserted that the Settlements, on their part, "should not be bound to be represented by Malays". Newbould wanted the figure reduced even further to seven Malays. Given Adams' and Braddell's caution that Dato Onn's proposal would be unpalatable to the Chinese when the scheme was publicly discussed, the Working Committee agreed to a compromise, accepting nine Malays but also providing for the addition of two Chinese to represent the Settlements and leaving the option open for the inclusion of a further two Chinese to fill the position reserved for Education and the unallocated seat. The final approved representation of

44. The inclusion of a representative of educational interests was made at the insistence of Dr. Linehan who looked ahead to the possibility of the seat being filled by a representative of the University College of Malaya and, later, of the University when it was founded. See Minutes of CWC, 17 Sep. 1946, Ibid.
45. This was made at O'Connor's insistence to permit the inclusion of any outstanding member of the public not otherwise admitted or to provide for the representation of any interests which would not be otherwise adequately reflected (such as persons who were not Federal citizens). See Ibid.



unofficials is given in Table 8:4.<sup>46</sup>

TABLE 8:4

FINAL REVISED COMPOSITION OF UNOFFICIALS IN THE LEGISLATIVE COUNCIL

Unofficial representation by functional and racial interests	
Presidents of State Councils and representatives from Settlement Councils	11
Labour	2
Mining	2
Planting	2
Commerce	3
Malay community	9
Settlements	2
Eurasian community	1
Education and cultural interests	1
Unallocated	1
	<hr/> 34 <hr/>

Source: MU 294/A/46 Vol I.

As for the composition of the proposed Executive Council, the Working Committee agreed after a short meeting on 18 September to recommend the following: three ex-officio members consisting of the Chief Secretary, Attorney-General and Financial Secretary; nominated official members not exceeding four, one of whom must be the senior officer of the Services; and not exceeding five nominated unofficials. After spending a couple more days on the Federal Legislative list, the Committee on 22 September, with the preliminary issues on points of principle satisfactorily resolved, turned its attention to the form of the draft Federation Agreement drawn up by Braddell.<sup>47</sup> As Gent later reported, "much time and labour were exhausted" in painstakingly examining the Agreement clause by clause, and raising matters of "importance and delicacy" in the process.<sup>48</sup> On 29 September, at the request of the Malay members who wanted time to rest and to visit their families, the Working Committee was adjourned for its second time until 11 October.

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46. Minutes of CWC, 17 Sep. 1946, Ibid.

47. Minutes of CWC, 22 Sep. 1946, Ibid.

48. Gent to Hall, 29 Sep. 1946, CO 537/1530 no. 50823 Pt III.

The Colonial Office welcomed the latest proposals as "fundamentally" in line with approved policy although Bourdillon surmised that the increase in the size of the Legislative and Executive Councils were rather "unwieldy" and "uncomfortably large".<sup>49</sup> After Gent's explanation that these were the "minimum necessary" for the Legislative Council and that the addition of two nominated officials in the Executive Council was to permit the appointment of another official concerned with an important department such as Chinese Affairs, Labour, Education or Medical Services as well as the senior military officer, the recommendations were subsequently accepted.<sup>50</sup>

Bourdillon observed, however, that, on the key question of jurisdiction, "nothing about this" had been said in Gent's despatches.<sup>51</sup> To a query by the new Secretary of State, Arthur Creech-Jones,<sup>52</sup> Gent revealed that Braddell's draft Federation Agreement conferred on HMG only complete control over external affairs and contained no provision for the exercise of HMG's jurisdiction over the internal affairs of the Malay States except for appeals to the Privy Council and the disallowance of laws. The Malays, Gent reported, however, would not object if jurisdiction was delegated co-jointly by both the Rulers and His Majesty to the High Commissioner who would then exercise these Central powers on their behalf.<sup>53</sup>

The Colonial Office was flabbergasted. Creech-Jones bluntly told Gent that any suggestion of the High Commissioner's powers being limited by "concurrent" jurisdiction was entirely "out of the question". He repeated that any other procedure, apart from legislation by an Order-in-Council to bring the new constitution into force, would involve "such a chaotically complicated series of interlocking instruments as to be almost unthinkable" and that he fully shared Hall's assertion that "there is no question of going back on the pre-MacMichael treaties".<sup>54</sup>

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49. Minute by Bourdillon, 1 Oct. 1946, Ibid.

50. Gent to Creech-Jones, 8 Oct. 1946, Ibid.; and Creech-Jones to Gent, 12 Oct. 1946, Ibid.

51. Minute by Bourdillon, 1 Oct. 1946, Ibid.

52. Creech-Jones replaced Hall on 4 Oct. 1946 in a major ministerial reshuffle to "remove dead wood and give the young men a chance". See Kenneth Harris, Attlee, (London, 1982), p. 331. Hall became the First Lord of the Admiralty.

53. Gent to Creech-Jones, 8 Oct. 1946, CO 537/1530 no. 50823 Pt III.

54. Creech-Jones to Gent, 12 Oct. 1946, Ibid.

Mindful of the Colonial Office's position, Newbould cautiously ventilated the subject on 16 October in the Working Committee which had, in the meantime, resumed its deliberations since 11 October. Newbould's entreaty that references to the revocation of the Malayan Union Order-in-Council be omitted "to make things as easy as possible" for the Secretary of State was, however, rebuffed by Dato Onn who stiffly replied that UMNO would not "budge" on this fundamental issue.<sup>55</sup> Later that day Gent advised the Colonial Office against pressing the issue since it risked bringing negotiations to a "standstill" when a number of outstanding problems had still to be resolved.<sup>56</sup> Noting that Gent, of course, had discretion in such tactical matters, the Colonial Secretary nevertheless underlined that he too had no doubts that the establishment of the new constitution by an Order-in-Council was the "only reasonable course" to proceed.<sup>57</sup>

The impasse worried the Working Committee which considered on 24 October a memorandum on the procedure for giving legal force to the proposed Federation Agreement drawn up by its legal sub-committee the day before.<sup>58</sup> Arguing that an Order-in-Council was in fact "absolutely essential" on legal grounds, the memorandum proposed that, to satisfy Malay pride, a new Order-in-Council should be constituted, repealing the Malayan Union Order-in-Council, and giving full legal force to its constitutional successor on the "appointed day". To further assuage Malay sensitivities, it recommended that new State agreements should then be concluded with the Rulers superseding the MacMichael Agreements. Thereupon, the Rulers would then immediately convene their Councils of State and enact new laws ratifying the State agreements and the Federation Agreement and declaring those documents to be in full force in their States "on the appointed day".<sup>59</sup> Counselling by Braddell that there were no viable alternatives to the procedure by Order-in-Council, the Malay members reluctantly agreed. They would not, however, be brought to admit that the exercise of de jure jurisdiction by HMG on any Malay State

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55. Minutes of CWC, 16 Oct. 1946, Nik Ahmed Kamil Papers SP 43/4/4.

56. Gent to Creech-Jones, 16 Oct. 1946, CO 537/1530 no. 50823 Pt III.

57. Creech-Jones to Gent, 21 Oct. 1946, Ibid.

58. "Memorandum by Legal Sub-Committee on the need for giving full legal force to the proposed Federation Agreement and State Agreements, and the method of doing so", 23 Oct. 1946, MU 294/M/46.

59. Minutes of CWC, 24 Oct. 1946, MU S/No. 131.

could be binding although they accepted Braddell's contention that Britain had acquired de facto authority to make an Order-in-Council. If accepted by HMG, these proposals, as Gent reported the following day, would ensure that the new constitution would have the combined legal force of both an Order-in-Council and the State enactments - in short, the maximum legal sanction obtainable.<sup>60</sup>

Since the resumption of the discussions on 11 October, Braddell's proposals for the constitution of a central "Conference of Rulers",<sup>61</sup> whose functions would be almost entirely formal (such as assenting any bill passed by the Legislative Council) and consultative (for instance, meeting the High Commissioner at least three times a year), and the establishment of local "Councils of State",<sup>62</sup> mainly deliberative and legislative bodies, and "State Executive Councils", which would carry out the executive functions provided for under Central or State legislation, had also been examined by the Working Committee. Doubts, however, were expressed by O'Connor about the necessity of "State Executive Councils", since these would add numerically to the Councils that would be established and also because of the likelihood of confusion with the Federal Executive Council, but the arguments of the Malays prevailed: by allowing the Sultans to preside over the State Executive Councils but not the Councils of State, they could henceforth be treated as strictly constitutional princes and not as absolute Rulers.<sup>63</sup>

On the subject of the title of the new constitutional entity Gent had informed the Colonial Office on 9 October that the Malay members had remained insistent on "Federation of Malaya"; as the latter could also be reasonably expected to be acceptable to the non-Malays, he urged that it be approved.<sup>64</sup> Since the title included the word "Malaya", a term which was normally used to describe Singapore as well as the Mainland, Paskin, however, feared that it could be criticised on that ground: the choice of "Malayan Union", for instance, had been made "with our eyes open as to the point about Singapore."<sup>65</sup> On the other hand, he thought that "Federation" was an apt description of the new constitutional set-up that was being contemplated and to permit the Malays

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60. Gent to Creech-Jones, 25 Oct. 1946, CO 537/1530 no. 50823 Pt III.

61. Minutes of CWC, 12 Oct. 1946, MU S/No 131.

62. Minutes of CWC, 14 Oct. 1946, Nik Ahmed Kamil Papers SP 43/4/2.

63. Minutes of CWC, 16 Oct. 1946, Nik Ahmed Kamil Papers SP 43/4/4.

64. Gent to Creech-Jones, 9 Oct. 1946, CO 537/1530 no. 50823 Pt III.

65. Paskin to E.R. Edmonds, 21 Oct. 1946, Ibid.

to have this title would make a "graceful concession" on HMG's part.<sup>66</sup> While recognising the strength of Malay "prejudice" against Union, Creech-Jones, however, felt strongly that the "really apt title" was "Malayan Federal Union" despite the difficulties in translation since the abandonment of "Union" would provoke "political difficulties" for him in Whitehall.<sup>67</sup> Gent, however, offered "no prospect" of any title with "Malayan" or "Union" included; it was only with difficulty, the Governor explained, that the Malays had been brought to regard "Federation of Malaya" as more suitable than "Federation of Malay States and Settlements": "They insist on their view that the whole principle is one of 'Federation' against 'Union'."<sup>68</sup> Reluctantly, Creech-Jones agreed.<sup>69</sup>

On 26 October the Working Committee considered a memorandum by Adams containing the latest Malay proposals on citizenship, in order, as Newbould put it, to "tidy up" a number of "loose ends". Hopes for a tidy solution, however, soon evaporated. The Malay proposals retreated even further from the position agreed on 9 September and the Colonial Office's demand for common citizenship. While a Malay subject of the Ruler would be granted citizenship automatically, a British subject would now need to have both his parents either born locally or resident there for at least twenty years, but not both. So long as only one parent was born in Malaya, Adams argued that ties with the Motherland could not be said to be completely severed and the possibility of another alternative home could not be discounted. He would not object, however, if one parent was born in the Federation and the other in Singapore. For all other persons born locally (mainly Chinese), the criterion was even bleaker: both parents must be born locally and resident there for not less than twenty years. In short, the new proposals effectively excluded all but the second generation of Chinese and Indians from Federal citizenship. After further discussions, during which both O'Connor and Braddell warned that the parental qualification would be strongly opposed by the Straits Chinese, many of whom "frequently went to China for their wives in order to maintain the virility of the stock", a compromise by O'Connor was accepted: for a British subject, it would now only be necessary for the father to be born in the Federation. Partly

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66. Minute by Paskin, 24 Oct. 1946, Ibid.

67. Creech-Jones to Gent, 25 Oct. 1946, Ibid.

68. Gent to Creech-Jones, 27 Oct. 1946, Ibid.

69. Minute by Bourdillon, 8 Nov. 1946, Ibid.

to ensure that the children of a mother less than twenty years old would not be excluded, the residential qualification was also reduced to fifteen years for both categories. There was, however, one "redeeming" feature: a further provision admitted children of citizens to automatic citizenship.<sup>70</sup>

After a two day interval to permit the legal sub-committee time to prepare a revised draft, the Working Committee reassembled on 29 October. As the proposals still discriminated against British subjects, O'Connor urged that this distinction be eliminated altogether by extending the same conditions equally to both the subject of the Ruler and British subject. Braddell argued, however, that O'Connor's analogy was incomplete: the former was almost certainly a Malay, with Malaya as his home; the latter could either be an European, a Chinese, Indian or Persian with outside loyalties. O'Connor's proposals, if accepted, would mean that the Malays would have to claim Malaya as their home and this was unacceptable to them. Dato Onn's enjoining riposte was even blunter. In menacing terms, he warned that any effort to displace the Malays from their own country would result in "trouble":

There was talk about trouble from the Straits Chinese and other communities, but it seemed to be forgotten that the vast majority of the people - the Malays - could also make trouble if what they regarded as their legitimate rights were not met. He would be very frank with the Committee. He was in a position to know that Malay opinion was prepared for trouble if further concessions were going to be made to Chinese, Indians and others.<sup>71</sup>

The strain on Dato Onn had been apparent since the defeat by UMNO representatives of his motion calling for the lifting of the boycott against participation in the Advisory Council just the week before.<sup>72</sup> The rebuff, as Gent intimated to MacDonald, had unsettled Onn deeply, as well as others on the Working Committee, making them "nervous of their whole position" even on matters which had already been settled.<sup>73</sup> Appalled at Onn's "poor political judgment" in raising the issue with his followers,

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70. Minutes of CWC, 26 Oct. 1946, MU S/No. 131.

71. Minutes of CWC, 29 Oct. 1946, Ibid.

72. Gent to Creech-Jones, 27 Oct. 1946, CO 537/1530 no. 50823 Pt III. Onn's motion was defeated by a majority of 12 to 9 with 3 abstentions. It was feared that any association in the Advisory Council would prejudice Malay claims and their consistent refusal to recognise the validity of the Malayan Union.

73. Gent to MacDonald, 29 Oct. 1946, MacDonald Papers 16/6.

a disappointed MacDonald ruminated:

It is rather frightening that he should show such a poor understanding of the psychology of the movement of which he is the leader. He was bound to be defeated, with a consequent loss of authority to himself and the moderates. If only he had waited until the agreement was through, he could have put his proposal and carried it triumphantly. Now he has strengthened the 'left wing' with results which will be unsatisfactory for us all.<sup>74</sup>

Regretfully Gent informed the Governor-General that it now seemed unlikely that the Working Committee could complete its task by 1 November as originally envisaged. For MacDonald, who had already "fixed my wedding for December 3rd and now have to postpone it for the fifth time" it was a "sickening affair": "The MacDonald Union", he lamented, "is having about as rocky a time as the Malayan Union itself."<sup>75</sup>

No decision was recorded at the meeting of 29 October. When the Working Committee reassembled the following day, the impasse remained. Dato Onn reiterated his refusal to amend the draft which had already "gone beyond" what he had been authorised by UMNO. He then repeated his threat that the Malays "were prepared for trouble, if necessary" and that, if pressed further, he was quite prepared to "risk the whole negotiations" and break off all discussions. Newbould quickly assured him that the stage had not been reached for such a drastic step. Nevertheless, as Williams argued, it was also equally "impossible to justify discrimination against the indigenous peoples of the Settlements" who were in a "different footing" altogether: birth in them must confer citizenship just as birth there bestowed on all the rights of British subjects. As the ball was now in the Government's court, Newbould agreed to forward the latest position to the Secretary of State.<sup>76</sup> The following day, Gent cabled his grim report to Creech-Jones: Malay opposition had been "unanimous" to any broadening of the citizenship categories.<sup>77</sup>

On 1 November, the Working Committee adjourned for ten days to allow the Malay members time for their Hari Raya Haji festive celebrations. Later that day, deeply disturbed by the recent turn of events, Braddell wrote privately to Newbould. The "Malay" situation, he warned, was at

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74. MacDonald to Gent, 1 Nov. 1946, Ibid.

75. Ibid.

76. Minutes of CWC, 30 Oct. 1946, MU S/No. 131.

77. Gent to Creech-Jones, 31 Oct. 1946, CO 537/1530 no. 50823 Pt III.

the moment "loaded with dynamite which will not need much to touch it off." If the present negotiations failed, he feared this would spell the ruin for the whole British position in South East Asia. "Our friends are the Peninsular Malays", Braddell asserted: "With them behind us we can handle the Merdeka movement. The present proposals are those of Peninsular Malays. Accept them and we have a solid backing which will include the Straits Chinese and the Indian Malaya-born and Eurasians. Reject these proposals and you will have a state of affairs very quickly that will mean much bloodshed and an anti-British spirit which will never be quelled or quellable." And for what, Braddell asked? The sake of immigrants who were "apathetic generally" and who would not regard Malaya as their real home or the object of their loyalty? The "utter unfitness" of the Chinese for citizenship had already been demonstrated these past months by their "total want of public spirit [and their] desire to gauge out every single cent of profit, regardless of ethical or legal restrictions. And it must surely be obvious that behind all that is going on there must be powerful influences who cannot have the excuse of not knowing any better."<sup>78</sup>

In an account which the Colonial Office described as "disturbing",<sup>79</sup> Gent's own appreciation of the situation in Malaya, which he despatched together with Braddell's letter to Newbould, confirmed the "noticeable increase of nervous tension" amongst Malay political opinion in general. Already "critical", the situation could easily become "calamitous", the Governor warned. Both Braddell and Adams were already feeling the "delicacy of their own position" and were "in a fairly advanced condition of strain", as were the Malay members of the Working Committee who had "come as far as they dare towards our point of view". Already there were "considerable Malay elements gunning for them for having gone so far ... These will be only too happy if the local proposals are rejected on any substantial point which will give the Malays generally an opportunity of backing out and definitely non-cooperating." The leadership of the Malays would then "pass into the hands of the Indonesian forces of the MNP, supported for so long as it suits them by the Malayan Communist Party". Given the explosiveness of the situation, Gent urged that a "quick settlement" with UMNO and the Rulers was imperative. He surmised

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78. Braddell to Newbould, 1 Nov. 1946, Ibid.

79. Minute by Bourdillon, 13 Nov. 1946, Ibid.



that the Chinese and Indians were likely to accept the proposals "if they are accepted by HMG."<sup>80</sup>

Any suggestion that HMG provisionally approved the proposals was impossible for Creech-Jones to maintain given his assurances of consultation with the other communities. "It will be fatal", the Colonial Secretary warned, "if we lay ourselves open to the charge of having insufficiently consulted the other communities, after such full and prolonged discussion with the Malays."<sup>81</sup> Nor was it probable that the difficult and complex citizenship problem could be, opined Bourdillon, "settled in a hurry".<sup>82</sup> Nevertheless to meet Gent's urgent plea, Bourdillon proposed that the citizenship question be deferred for decision "at greater leisure" while the "purely constitutional proposals" be permitted to proceed ahead for an early settlement. This tactical procedure, he felt, would give the moderate Malay negotiators some "early, tangible proof" of their success and strengthen and consolidate their positions within their own ranks.<sup>83</sup>

Returning to its discussions on 11 November, the Working Committee had, in the meantime, considered and approved the final report for the Plenary Conference scheduled later that month. In one final effort to break the citizenship deadlock, O'Connor on 15 November suggested that a new clause be inserted to the existing categories giving any British subject born and permanently resident in the Settlements automatic Federal citizenship, thus narrowing the distinction between himself and the Malay subject of the Ruler to only the fifteen years residential qualification for the former, a reasonable condition to exclude transitory elements from the population. As the proposal affected only persons born and resident in the Settlements, the proportion of Federal citizens in the Malay States remained the same. O'Connor's compromise was acceptable to the Malays, anxious also for a resolution to this difficult question. They, however, wanted their agreement linked to two conditions. The first, which was accepted, concerned the assurance that any Peninsular Malay born outside the States would be granted automatic citizenship if his father was a subject of the Ruler. Secondly, the Malays insisted that immigration, a subject vital to their political and economic survival,

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80. Gent to Gater, 5 Nov. 1946, Ibid.

81. Creech-Jones to Gent, 8 Nov. 1946, Ibid.

82. Minute by Bourdillon, 13 Nov. 1946, Ibid.

83. Ibid.

should be reserved for the Conference of Rulers and not for the Legislative Council where financial interests might be in need of cheap labour. Newbould, however, feared that such a proposal might be criticised as "undemocratic"; as a compromise, it was finally agreed that the Conference of Rulers must be consulted by the High Commissioner on Federal immigration policy and that, in the event of disagreement, the matter would then be referred to the Secretary of State for his judgment.<sup>84</sup> The latest citizenship proposals, as Gent cabled Creech-Jones the following day, represented "a substantial advance. We are convinced that it now is the best we can get."<sup>85</sup>

With the citizenship issue amicably resolved, the Working Committee met for its final session on 18 November to sign its report. Two days later the report, together with the draft Federation Agreement and Model State Agreement, was approved by the Plenary Conference of Government, Rulers and UMNO Leaders and flown on 22 November to Whitehall together by MacDonald, Newbould, O'Connor and Watherston. Writing to Lloyd on the same day, Gent urged that the proposals be promptly approved "without permitting any 'clever' points to be made either of a legal or political nature." "I may be asking a lot", the Governor admitted, "but a lot is at stake with China, India and Indonesia as very strong forces pulling us apart here."<sup>86</sup> If he could be authorised to "give a lead in public" favouring the new scheme, Gent had also suggested to Creech-Jones the day before, the prospects of public controversy drifting into "conditions of cyclonic disturbance" would be very much reduced.<sup>87</sup>

In preparation for the talks with the Governor-General, Bourdillon on 22 November drafted two minutes taking stock of the situation after discussions with Paskin, Lloyd, Dale and Peck in the morning. On the subject of a strong Central Legislature, Bourdillon observed that the final list of 144 items included in the draft Federation Agreement received by the Colonial Office had indeed been "very comprehensive" and the position of a strong Central Government was therefore firmly secured.<sup>88</sup>

Turning to citizenship, the fundamental issue, as Bourdillon saw it, was relatively simple: were the proposals for different categories of "first generation" citizenship compatible with HMG's expressed objective

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84. Minutes of CWC, 15 Nov. 1946, MU S/No. 131.

85. Gent to Creech-Jones, 16 Nov. 1946, CO 537/1543 no. 50823/15 Pt II.

86. Gent to Lloyd, 22 Nov. 1946, CO 537/1531 no. 50823 Pt IV.

87. Gent to Creech-Jones, 21 Nov. 1946, Ibid.

88. Minute by Bourdillon, 22 Nov. 1946, Ibid.

of common citizenship? Bourdillon's own conclusion was that some distinction were in fact "both reasonable and just". Indeed, few would "find fault" with the stipulation that Malays, who had only Malaya as their home, should automatically be citizens or quarrel with the additional residential qualification for British subjects born in the Settlements devised to exclude transitory elements. But for British subjects born in the Malay States, the majority of whom were Indians employed in the estates, the position, however, was less satisfactory since birth and residence would generally suffice if the Malays had presumed to exclude transitory elements from the Indian community; the stipulation that the father must either be born or resident for fifteen years would therefore seem "hard to justify". As for all others born in the Federation, including most of the Chinese born in the Malay States, Bourdillon conceded that birth and residence might be insufficient given the history of many Chinese, even after prolonged periods of residence, reverting to China. He had reservations, however, about whether this argument could be employed to justify the condition that both parents must be born locally and have resided there for fifteen years.

On the proposals for citizenship by application, Bourdillon detected one obvious anomaly: whereas persons naturalised as subjects of the Rulers, which would confer the status of citizenship, required only five years' residence under existing FMS laws, those who applied directly to be citizens must either have been born in the Federation and resided there for ten out of fifteen years or must have resided there for fifteen out of the last twenty years.<sup>89</sup> Since the majority of those who would apply for naturalisation as subjects of the Rulers, or would be accepted as such, would be drawn mainly from immigrants of the Malay race from Indonesia the discrepancy in the length of residence would be "positively objectionable" as it discriminated openly against other applicants for citizenship. Apart from these reservations Bourdillon observed that there was "nothing in those clauses ... which fundamentally affects the situation as previously understood by us."<sup>90</sup>

The position with regard to jurisdiction was also "satisfactory" since the new constitution would be brought into effect by Order-in-Council.

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89. Additionally, applicants also had to be of good character, possess an adequate knowledge of Malay or English, make a declaration of permanent settlement and take the oath of citizenship.

90. Minute by Bourdillon, 22 Nov. 1946, CO 537/1543 no. 50823/15 Pt II; see also "Note on Citizenship", 20 Nov. 1946, Ibid.

Although HMG would thereafter only exercise jurisdiction in the Malay States over external affairs and defence (which would have to include some measure of internal jurisdiction), and for the purpose of appeals to the Privy Council, this was not necessarily worrisome since HMG would also have the power to disallow laws and, at the same time, she also retained control over both the Central and State bodies, directly in the former, through the exercise of reserved powers by the High Commissioner over the Federal Executive and Legislative Councils and, implicitly by the retention of reserved powers over both the State Executive Councils and the Councils of State by the Rulers who were, in turn, bound by Treaty to accept British advice. The only feature which was unsatisfactory concerned the provision that future amendments to the constitution would require the consent of the Rulers, a stipulation which could in theory enable any one Sultan to block future constitutional progress.<sup>91</sup>

MacDonald's party arrived on 24 November and discussions with the Colonial Office began almost immediately the following morning. Later that day, Bourdillon was able to report that "much valuable elucidation" has been obtained on points which had seemed troublesome to the Secretary of State. On citizenship, the Malayan representatives explained that the different treatment of British subjects born in the States was not, as was believed, for the purpose of discriminating against Indians, but sprung from a genuine expression of Malay fears of submergence in their own States. The discrepancy in the naturalisation provisions was also not an attempt to open a "back-door" for Malay immigrants from Indonesia and there was "no difficulty" in amending the clauses. Repeated attempts to persuade the Rulers to dispense with their veto on future constitutional amendments had, however, proved abortive, although, as both MacDonald and Newbould suggested, a compromise requiring only the approval of the Conference of Rulers, instead of each individual Ruler, might be acceptable to the Malays.<sup>92</sup>

Satisfied, the Colonial Secretary on 29 November submitted a memorandum to the Cabinet, outlining the main provisions and recommending their urgent acceptance as a basis for wider discussions with the other communities. Both MacDonald and Gent, Creech-Jones reported, had

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91. Minute by Bourdillon, 22 Nov. 1946, CO 537/1531 no. 50823 Pt IV.

92. "Supplementary Note on Malayan Constitutional Questions", 25 Nov. 1946, Ibid.

emphasised the urgency of acting "with all reasonable speed" as they feared that the current thaw in Anglo-Malay relations would otherwise freeze again.<sup>93</sup> On 2 December, assured by the Colonial Secretary that the new proposals preserved the principles of policy already approved by the Cabinet and would be acceptable to the "more stable elements" in the non-Malay communities, the Colonial Affairs Committee endorsed the memorandum for submission to the Cabinet<sup>94</sup> which approved it three days later,<sup>95</sup> assured that the proposals represented no fundamental departure from the objectives "for which HMG have always striven ... to set Malaya firmly on the road toward unity and constitutional progress."<sup>96</sup>

On 5 December Creech-Jones cabled the Governor with the news of HMG's "conditional approval" of the proposals, subject to the satisfactory resolution of a number of points to be referred back to the Malays and the course of discussions with the non-Malays, but qualified his approval only to the draft Federation Agreement and the Model State Agreement a few days later upon learning from Bourdillon that the Working Committee's report had contained specific references to the "supersession" of the MacMichael Agreements.<sup>97</sup>

Both Newbould and O'Connor, who had remained in London to finalise drafting and legal points with the Colonial Office's own legal officers, arrived in Kuala Lumpur on 18 December with the new amendments for the consideration of the legal sub-committee before presentation to the Working Committee and Plenary Conference the following day. Working "full out" on an "impossibly short schedule" the legal sub-committee frantically considered and accepted all the amendments to the Federation and Model State Agreements. Fortunately, as O'Connor gratefully observed, both the Malays and Braddell were "in an accommodating mood and one only had to push hard on two or three points."<sup>98</sup> After an "exhausting session" the following day the necessary amendments were approved by the Plenary Conference.<sup>99</sup> On Christmas Eve, the constitutional proposals were

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93. CAB 134/52 C (46) 6.

94. CAB 134/52 C (46) 3.

95. CAB 128/6 CM (46) 103.

96. Creech-Jones to Gent, 5 Dec. 1946, CO 537/1531 no. 50823 Pt IV.

97. Creech-Jones to Gent, 10 Dec. 1946, *Ibid.*

98. O'Connor to Lloyd, 25 Dec. 1946, CO 537/1532 no. 50823 Pt V.

99. Gent to Creech-Jones, 20 Dec. 1946, *Ibid.*

officially published.<sup>100</sup> On the same day, a Consultative Committee was appointed to:

invite the opinion of all interested individuals, communities and groups in Malaya on the Constitutional Proposals ... to hold such public or private sessions as may be necessary to give the fullest opportunity of expressing their views ... and to collate the views so expressed and to report their substance to the Governor of the Malayan Union for consideration in the Advisory Council with such comments and recommendations as the Committee may see fit.<sup>101</sup>

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100. Malayan Union, Constitutional Proposals for Malaya: Report of the Working Committee appointed by a Conference of His Excellency the Governor of the Malayan Union, Their Highnesses the Rulers of the Malay States and the Representatives of the United Malays National Organisation, (Kuala Lumpur, 1946).
101. Malayan Union, Constitutional Proposals for Malaya: Report of the Consultative Committee together with proceedings of six public meetings, a summary of representations made and letters and memoranda considered by the Committee, (Kuala Lumpur, 1947), p. 7.

## CHAPTER NINE

## THE ROAD TO FEDERATION: DECEMBER 1946 TO FEBRUARY 1948

This constitutional question is like an open sore. It has been with us now for a year irritating the body politic and distracting us from our proper and urgent tasks of government and rehabilitation. Let us get rid of it, and get on with our jobs ...

K.K. O'Connor, 10 April 1947.

## I

Until December 1946, the Colonial Office had encountered little overt opposition from the non-Malays as it engaged in confidential discussions with the Malays. The veil of secrecy which had shrouded the Anglo-Malay talks<sup>1</sup> effectively precluded any participation from the non-Malays. Until then, partly becalmed also by official assurances that "all circles concerned" would be consulted before final decisions were reached, Malayan opinion had thus been generally encouraged to adopt a wait-and-see posture pending the outcome of the secret talks.<sup>2</sup> By mid-December, however, it was clear that Malayan opinion had been roused. On 14 December 1946 the Government was informed of the formation of the Council of Joint Action (CJA) in Singapore consisting of a number of organisations opposed to the constitutional discussions with the UMNO

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1. The confidentiality of the proceedings had been insisted by the Malay members of the Working Committee on 7 Aug. 1946.
  2. See Newbould to Tan Cheng Lock, 25 Jul. 1946, printed in Tan Cheng Lock, Malayan Problems: From a Chinese Point of View, (Singapore, 1947), pp. 164-165. After "fairly accurate" summaries of the Working Committee's proposals were leaked by the London press in early October, Gent issued an official statement on 7 Oct. 1946, dismissing them as having "no official authority." Two days later, in the House of Commons, Creech-Jones similarly assured Parliament that the press reports were "entirely unofficial" and that "all sections of opinion in Malaya" would be consulted before any decisions were taken. See Gent to Creech-Jones, 8 Oct. 1946, CO 537/1530 no. 50823 Pt III and Parliamentary Debates, H.C., 9 Oct. 1946. Cols. 50-51.

and the Rulers.<sup>3</sup> Two days later, Creech-Jones received a telegram from the CJA demanding the rejection of all previous discussions and agreements with the Rulers and UMNO and urging HMG to frame a new constitution on the basis of the CJA's three essential principles: (1) a united Malaya inclusive of Singapore, (2) a self-governing Malaya with a fully elected legislature, (3) a citizenship granting equal rights to all who made Malaya their permanent home and object of their undivided loyalty. The CJA, the telegram added, should be recognised as the "only body" with which the Government might conduct fresh constitutional discussions.<sup>4</sup> On 22 December - by then renamed the Pan-Malayan Council of Joint Action (PMCJA) to give it a more explicit "Malayan" focus - the PMCJA, in a second telegram to the Colonial Secretary, protested against HMG's commitment to a "virtual acceptance" of the Federation proposals by consulting only "a certain section of the Malay community". As it had been presented with a fait accompli, the PMCJA argued that it was impossible for the organisation to enter into any discussions with the recently appointed Consultative Committee.<sup>5</sup>

Gent, however, tended to play down the PMCJA's importance. He noted, for instance, that the latter had made a "poor start" by claiming the monopoly of consultation with the Government - a demand which was unlikely to receive wide support and could not be considered by the Government.<sup>6</sup> Comprising, as it was, mainly "leftist" organisations, Gent opined that, unless the PMCJA succeeded in persuading the Chinese

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3. These included the MDU, MNP, Malayan Indian Congress (MIC), the Singapore Women's Federation, the Singapore Clerical Union, the General Labour Union (GLU), the Straits Chinese British Association, Singapore Indian Chamber of Commerce and Singapore Tamils Association.
  4. See telegram from CJA to Creech-Jones, 16 Dec. 1946, printed in Tan, pp.165-166. Following criticisms by some of the leading English-language newspapers, John Eber, the Eurasian Secretary-General of the CJA, clarified its position at a press conference on 19 Dec. 1946. The rejection of all previous agreements, he asserted, was on the grounds of principle: "We are naturally in no position to reject out of hand proposals which we do not know about and if any part of these proposals fit in with our basic principles we shall naturally be very willing to accept them." See "Summary of the activities of the Council of Joint Action", n.d., in PR 695/46.
  5. See PMCJA to Creech-Jones, 22 Dec. 1946, printed in Tan, pp. 166-168.
  6. Gent to Gater, 19 Dec. 1946, CO 537/1567 no. 50823/52.



Chambers of Commerce and the Straits Chinese British Association, which had so far stayed away, to join its fold, "its claim to represent even the non-Malay Asiatic domiciled communities has little basis."<sup>7</sup> As the Governor saw it, the PMCJA was still in a state of "flux" and it remained "doubtful whether the various Associations at present composing it will continue to function as one body, representing as they do very divergent views and aims." The MIC, for instance, was still contemplating whether it should associate itself with the Council "as it is frightened that the latter may come under Communist control." The MNP, on its part, was also having second thoughts about remaining in the PMCJA, as reflected in its absence from the second meeting of the Council on 5 January 1947.<sup>8</sup> In fact, as the Malayan Security Service reported in December 1946, the MNP President, Dr. Burhanuddin, was severely censured during the second congress of the party from 25 to 27 December for lending support to the PMCJA without reference to the Committee. Part of the reason was because the MNP felt that "the lead in matter" should have come from itself rather than from the PMCJA.<sup>9</sup> But although the PMCJA was prepared to make considerable concessions to humour the MNP, such as accepting a MNP representative as vice-chairman, Gent observed that no agreement had been reached concerning the demand for the right of veto over matters inimical to Malay interests by the MNP.<sup>10</sup>

The creation of the PMCJA, however, was viewed with concern by both the Colonial Office and the Governor-General. Observing that the PMCJA was already achieving a certain amount of success in publicising its opposition in the British press, the Colonial Office considered its formation a "sufficiently important and potentially troublesome development" that required careful treatment.<sup>11</sup> Creech-Jones consequently queried Gent on 4 January 1947 about the advisability of receiving a deputation from the PMCJA to discuss the constitutional issue.<sup>12</sup> The Governor, however, strongly demurred. Tactically, Gent argued that this would be "highly undesirable" not only because it would give an unwarranted "fillip" to the PMCJA but also because it would be "most

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7. Gent to Creech-Jones, 9 Jan. 1946, CO 537/2150 no. 52243/5.

8. Ibid.

9. MSS/PIJ 31 Dec. 1946, p. 11.

10. Gent to Creech-Jones, 9 Jan. 1947, CO 537/2150 no. 52243/5.

11. Creech-Jones to Gent, 4 Jan. 1947, CO 537/1567 no. 50823/52.

12. Ibid.

discouraging" to the other more important (though less vocal) bodies and individuals who were expected to express their views to the Consultative Committee. "The last thing I would wish", Gent added, is to do anything to increase its influence and capacity for pressure on other more reputable and responsible persons and organisations."<sup>13</sup>

MacDonald's concern was expressed at the Governor-General's conference in Penang on 19 January. Noting Gent's refusal to meet the PMCJA collectively, MacDonald hoped that he would not finally "close the door" to seeing them. Although the PMCJA, at present, was not a significant force to be reckoned with, MacDonald feared that any mishandling of the latter might provoke a "swing of popular opinion in their favour." By insisting that the PMCJA could only submit their representations through the machinery of the Consultative Committee, a procedure which the former had categorically rejected, the Government was veering dangerously, in MacDonald's opinion, towards alienating the PMCJA completely. If the Council refused to budge and gathered considerable support in the country, MacDonald surmised that the Government would then have to "eat its words and establish contact with the Council of Joint Action as had been necessary previously in regard to UMNO". Gent, however, was unmoved. If necessary, the Governor asserted that he was prepared to "eat his words" but he would not enhance the prestige of the PMCJA at the expense of the position of the Consultative Committee. To bypass the latter at this stage, he argued, could result in resignations from the Consultative Committee and the Advisory Council itself. It could also damage Malay confidence in the Government, which had been largely restored, and weaken UMNO which had consolidated its position in support of the Federation plan. The PMCJA, on the other hand, apart from a few individuals, consisted of organisations of "little account", nearly all of which were associated with the MCP whose objective was to "make trouble" for the Government.<sup>14</sup>

Gent's assertion that the PMCJA appeared a "trifle disjointed"<sup>15</sup> and posed no immediate threat to the Government seemed vindicated when

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13. Gent to Creech-Jones, 7 Jan. 1947, CO 537/2150 no. 52243/5.

14. Minutes of the Governor-General Conference, 19 Jan. 1947, CO 537/2165 no. 52738/1.

15. Gent to Lloyd, 14 Jan. 1947, CO 537/2141 no. 52243 Pt. I

the MNP, unable to resolve its differences within the Council,<sup>16</sup> withdrew on 23 January to found its own Malay Council of Joint Action, the Pusat Tenaga Raayat (PUTERA), "to urge roughly the same objectives as the CJA, [but] with a Malay flavour."<sup>17</sup> Deprived of its Malay base of support the PMCJA's claim to be representative of all races appeared even less credible. Nor was the PMCJA able to woo Chinese commercial interests in Singapore and the Malayan Union to support its anti-Federation campaign. Many rightly were suspicious of the PMCJA's leftwing credentials and submitted their views to the Consultative Committee instead.<sup>18</sup> As Gent observed, reports of the PMCJA's numerous "mass" meetings had in fact been grossly exaggerated. The fact was, Gent intimated to Creech-Jones, "The CJA has lost support except from the radical elements."<sup>19</sup>

But although it had failed to mobilise widespread opposition against the Federation scheme, the PMCJA's incessant public campaigns deeply embittered racial relations between the Malays and Chinese and made the process of reaching an acceptable political settlement more onerous. Clearly concerned, MacDonald towards the end of January invited both Tan Cheng Lock, the chairman of the PMCJA, and John Thivy, the MIC President, for separate talks with him.

Tan Cheng Lock's association with the PMCJA had seemed an enigma to the British. His choice of partners in the PMCJA, for instance, surprised the Malayan authorities. As Gent observed, "It is a queer bunch of fishes and especially a curious one for Tan Cheng Lock to allow

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16. Soviee suggested that the MNP's decision was probably because of its disappointment at not filling the post of chairman, its dissatisfaction as regards what it perceived as the non-Malay image, leadership and programme of the PMCJA, and its fears that by its membership it might lose whatever little Malay support it had. See M.N. Soviee, From Malayan Union to Singapore Separation: Political Unification in the Malaysia region 1945-65, (Kuala Lumpur, 1976), p. 41.

17. Morris to Bourdillon, 8 Feb. 1947, CO 537/2141 no. 52243 Pt. I.

18. See Yeo Kim Wah, "The Anti-Federation Movement in Malaya, 1946-48", JSEAS, 4,1 (Mar. 1973), 41.

19. Gent to Creech-Jones, 6 Feb. 1947, CO 537/2141 no. 52243 Pt. I. See also report by E.V.G. Day on a PMCJA "mass meeting" in Malacca on 5 Feb. 1947. In Day's opinion, the "show was a flop". Although between 1200 to 1500 "onlookers" had gathered for the meeting, the number started to dwindle rapidly ten minutes after the opening speaker had spoken. "A dogfight or a peanut-seller and private conversations would always attract." Report by Day, 14 Feb. 1947, CO 537/2150 no. 52243/5.

himself to be caught up in."<sup>20</sup> Fifteen years ago, Gent remarked to Lloyd: "It would have been highly unlikely that Tan Cheng Lock would have been seen dead with any of his present associates in the 'Council of Joint Action'." Speculating on Tan's motives for championing the constitutional issue, the Governor, who had held several talks with him, surmised that these arose partly from his desire to "do a political come-back" after the years of absence from Malaya during the Japanese occupation and partly also from his own "embittered" past experience with Britain: "He had, as you know, many years of service both in the Executive and Legislative Council of the Straits Settlements, for which he eventually received the C.B.E. - a considerable disappointment to him since he expected a 'K'." During the war years, Tan and other British subjects were also "not very happy over their treatment at the hands of the Government of India and this rather added to his general disappointment in his position. He came back to Singapore (his house in Malacca being under military requisition - which also did not please him)." Nevertheless, Tan was "still a man of wealth", and, for that reason, apart from his reputation as an elder statesman, he still "exercises influence" especially in Singapore. But, as for the scope of his influence amongst the Chinese, Gent presumed that this was not extensive since he "is not familiar with the Penang or FMS Chinese".<sup>21</sup> Regarding his own standing in Malacca, Gent observed that a report by E.V.G. Day, the Resident Commissioner, had noted that "everyone regards him with suspicion [although] no one is prepared to go actively and openly against him." The feeling was strongest, Day had observed, amongst the Straits-born who considered that Tan had "deserted them" during the war. The China-born of KMT persuasion, on the other hand, "are annoyed with him for flirting with the Communists who appear to be trying to cultivate him - a compliment which he returns!"<sup>22</sup> For these reasons, Gent advised that HMG could safely give less weight

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20. Gent to Gater, 19 Dec. 1946, CO 537/1567 no. 50823/52. Since his return to Malaya in June 1946 Tan had taken a keen interest in Malayan constitutional affairs and had urged both the Colonial Office and the Malayan Government not to "beat a retreat" in the Union policy or to present the non-Malays with a fait accompli by imposing a new constitution without consulting them. See also Soh Eng Lim, "Tan Cheng Lock: His Leadership of the Malayan Chinese", JSEAH, 1, 1, (Mar. 1960) and K.G. Tregonning, "Tan Cheng Lock: A Malayan Nationalist", JSEAS, 10, 1 (Mar. 1979).

21. Gent to Lloyd, 29 Dec. 1946, CO 537/1565 no. 50823/49.

22. Gent to Lloyd, 1 Dec. 1946, Ibid.

to Tan's views on political questions than was customarily expedient in the past, although, as chairman of the CJA, he should be treated with respect "until, at any rate, it may be seen how far it is going to develop into a formidable exponent of an anti-Federation policy."<sup>23</sup> In short, Tan Cheng Lock, observed the Malayan Security Service, was a "disgruntled 'failed K.C.M.G.' who has time and money to squander on antics which keep him in the public eye."<sup>24</sup>

John Thivy<sup>25</sup> had initially opposed the Malayan Union policy which he felt had been imposed on Malaya. Consequently he adopted a pro-Malay and anti-British position on the constitutional issue. But as UMNO and the Rulers alone entered into secret negotiations with the British, Thivy's disillusionment with the Malay Right gradually heightened, partly induced also by fears of exclusion from the constitutional talks. Observing that UMNO had been unscrupulously playing on Malay racial fears of being overwhelmed by the immigrant races - a tactic he found disquietingly "fascistic" - Thivy moved to align the MIC with the Malay Left instead, in particular with the MNP, which he regarded as "our automatic allies" in the campaign against the British.<sup>26</sup> As an extremely "shrewd", "restless" and pro-Congress Party activist, who "still worship the memory of Subhas Chandra Bose", Thivy was suspected by the Malayan Security Service of wanting to dominate the PMCJA so as to use it as a platform against British rule, if only to bathe in the "reflected glory" of the struggle against British domination in India by the Mother Party.<sup>27</sup>

Whatever their personal or ideological differences with the British, both Tan Cheng Lock and Thivy were nevertheless key leaders within the PMCJA. Tan's chairmanship of the PMCJA, for instance, gave an

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23. Gent to Lloyd, 29 Dec. 1946, *Ibid.*

24. MSS/PIJ 31 Oct. 1947 (Supplement), p. 1.

25. Born in South India, Thivy completed his law study in London, after which he practised in Malaya until the outbreak of the war when he joined the Indian Independence League, sponsored by Subhas Chandra Bose. After the Japanese surrender, Thivy was consequently interned but was released in April 1946. During his internment he drafted the constitution of the MIC which was approved by Nehru during his visit to Malaya in March 1946. In August 1946, Thivy set up the MIC. "Intelligent" and "progressive" in outlook, Thivy was considered by the Malayan Security Service as constituting "a grave danger to the peace and security of Malaya". See MSS dossier on Thivy in CO 537/2150 no. 52243/5.

26. Rajeswary Ampalavanar, *The Indian Minority and Political Change in Malaya, 1945-1957*, (Kuala Lumpur, 1981), pp. 83-84.

27. MSS/PIJ 31 Oct. 1947 (Supplement), p. 1. Eber, for instance, was incensed at the MIC's efforts to portray itself as "indispensable" to the PMCJA. See Eber to Tan, 31 Dec. 1946, Tan Cheng Lock Papers (Arkib Negara).

added "Malayan" lustre to the otherwise leftist-dominated body. And so long as the PMCJA included "any substantial number of persons, like Tan Cheng Lock himself, who would presumably qualify for citizenship of the Federation", the Governor was advised by the Colonial Office that it "might be unfortunate to emphasise the non-Malayan character of the opposition."<sup>28</sup> As for Thivy, he represented an important segment of Indian opinion which could not be easily ignored. Both, presumably, as sensible and accomplished politicians, could be depended upon to adopt a more moderate outlook on Malayan problems. Thivy, for instance, though a committed "Congress Indian colonist", as Gent surmised, was nevertheless an "intelligent" and "educated Indian" who could be counted on to adopt an "intelligible attitude".<sup>29</sup>

In his interview with Tan Cheng Lock on the morning of 28 January 1947, MacDonald consequently intimated to him that the PMCJA was "doing a great deal of harm" because, instead of promoting cooperation between the different communities, it was "stirring up hatred between the Malays and the Chinese and Indians who were associated with the Council." The Government, MacDonald explained, could not recognise the PMCJA because any association would mean legitimising its "harmful activity".<sup>30</sup> The implication of the Governor-General's assertion could not have been lost on Tan: if the PMCJA was prepared to cease its "harmful activity" some accommodation with regard to the demand for "recognition" might be considered. In almost similar vein, MacDonald also confided to Thivy later that afternoon that the activities of the PMCJA had "aroused strong opposition and suspicion in many important Malay quarters." Noting that Thivy himself had made some "helpful" public remarks exhorting the importance of inter-communal cooperation, MacDonald opined that this objective, sadly, had been "greatly prejudiced" by the PMCJA's own actions. And unless Thivy was prepared to deal with UMNO, MacDonald suggested that he would get "nowhere" in his attempts to secure agreement with the Malays. The MNP, he added, represented only a minority of the Malays. If the MIC President was prepared to cooperate with UMNO on the constitutional issue, the Government, MacDonald assured him, "would do all that we could to help him in this". But, MacDonald warned, UMNO's

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28. Creech-Jones to Gent, 24 Sep. 1947, CO 537/2146 no. 52243/2 Pt II.

29. Gent to MacDonald, 7 Feb. 1947, MacDonald Papers 16/7.

30. MacDonald to Gent, 29 Jan. 1947, Ibid.

attitude had been made "hostile" by the PMCJA's outbursts against the constitutional negotiations.<sup>31</sup>

MacDonald had probably hoped to divide the PMCJA by opening separate talks with its two milder leaders. Failing this, he probably envisaged that his discussions would somehow help to persuade both leaders to exercise a moderating influence over the policies of the extremists in the PMCJA. Referring to his conversation with Tan, for instance, MacDonald expressed the hope that the former, at least, would "pass some of its contents on to his colleagues".<sup>32</sup> It could hardly also have escaped MacDonald's calculations that, without both Tan and Thivy, the PMCJA would be dealt a fatal blow with regard to either its "Malayan" leadership or to its claim to be representative of all races. Both Tan and Thivy, MacDonald observed, were not entirely immovable in their opposition. Tan's objections, arising as they were mainly from his "misreadings" of the proposals, could be easily cleared up. Furthermore, the PMCJA chairman was also "not really very happy about his association with the Council" or understood the forces that were associated with it.<sup>33</sup> As for Thivy, MacDonald detected no "fundamental and immovable opposition" to the Government. On the contrary, Thivy was "very fair minded" and impressed MacDonald as being prepared to cooperate with the Government so long as it satisfied his criteria of genuinely pursuing democratic aims on an inter-community basis.<sup>34</sup>

By early February there were some hopeful signs that the PMCJA chairman, dejected by the Government's refusal to deal with the Council, might be having second thoughts. A letter from Tan Cheng Lock to Gent on 5 February, for instance, was reported by the latter as having a "slight appearance of pessimism ... which is all to the good."<sup>35</sup> This seemed to be confirmed in a subsequent conversation with MacDonald on 13 February. Observing that MacDonald had argued for the need for agreement among all the races in Malaya, Tan Cheng Lock then asked why the Government would not recognise the PMCJA which was constituted to achieve that objective? MacDonald's reply was deliberately "uncompromising". The

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31. MacDonald to Gent, 3 Feb. 1947, Ibid.

32. MacDonald to Gent, 29 Jan. 1947, Ibid.

33. Ibid.

34. MacDonald to Gent, 3 Feb. 1947, Ibid.

35. Gent to MacDonald, 7 Feb. 1947, Ibid.

PMCJA, he argued, by its opposition to the proposals was creating the opposite effect by dividing the communities. It was also not representative, including only "about one and a half communities out of five." To Tan's plea that the Government should then assist the PMCJA to achieve its purpose, MacDonald curtly replied that, in his opinion, the Council had become "an obstacle to real inter-community co-operation in Malaya". His advice to Tan was to "bring the Council to an end." MacDonald's frankness so stunned the latter that he produced no argument in reply.<sup>36</sup>

Two days later Tan had a "long talk" with Gent. Maintaining the pressure, Gent reminded Tan that he was "widening the breach" over a matter of "mere procedure" by boycotting the Consultative Committee and urged him not to say or do anything that might "militate against the chance of goodwill, of agreement, and compromise with the Malays". So far, Gent added, the PMCJA had produced no detailed or constructive counter-proposals apart from engaging in "broad and superficial" condemnation of the Federation proposals. In more conciliatory terms, Gent proposed that Tan should really study the proposals and "compile a detailed and constructive memorandum" for consideration by the Government.<sup>37</sup>

The Government's efforts to wean both Tan Cheng Lock and Thivy to adopt a more conciliatory - and co-operative - policy were taken a step further on 23 February when Gent proposed during a meeting with UMNO officials that both leaders should be included in any future constitutional talks involving all the racial communities and not just the Malays. Gent's plan, however, fell foul with UMNO. Dato Onn strongly objected to the inclusion of either Tan or Thivy. He argued that only those who had accepted the Cheeseman Committee should be included: "Thivy has not put in his views, neither has Tan Cheng Lock - ignore them." Distrusting Thivy, Dato Onn insisted that he would not "deal" with him. Lee Kong Chian, the President of the Singapore Chinese Chamber of Commerce, Onn revealed, had also tried to arrange meetings between himself and Tan Cheng Lock but without success. Responding to Gent's argument that the exclusion of the main critics from the future talks would only

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36. MacDonald to Gent, 20 Feb. 1947. Ibid.

37. Gent to MacDonald, 16 Feb. 1947, Ibid.



afford fresh grounds for criticism of the Government, Dato Onn stiffly retorted: "What percentage of the adverse bodies represent 'Malayan Citizens'?"<sup>38</sup> Given UMNO's refusal to deal with either Tan or Thivy or the PMCJA, British efforts to moderate the latter, by wooing its leaders with the prospect of a part in the constitutional process, collapsed. Exclusion from the constitutional negotiations, on the other hand, left both Tan Cheng Lock and Thivy - and indeed the PMCJA - with little alternative but to accelerate both the pace and intensity of their campaign to wreck the Federation scheme and the deliberations of the Consultative Committee.

## II

The main function of the Consultative Committee, (chaired by H.R. Cheeseman, the Director of Education), as Gent impressed upon its members<sup>39</sup> in a private session on the morning of 19 December 1946 at King's House, was essentially "more in the nature of a jury", ensuring that all communities, including the Malays, had full and free opportunities for the expression of their views on the constitutional proposals and forwarding them for the consideration of the Government and HMG.<sup>40</sup> As the Committee excluded Malay members,<sup>41</sup> Gent was understandably anxious to avoid any impression that it was constituted solely for the purpose of consulting with non-Malay interests. Since 14 December, as we have seen, a section of non-Malay opinion had also been roused to oppose the

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38. Proceedings of Conference at King's House, 23 Feb. 1947, MU 294/V/46.

39. The nucleus of the Committee consisted of four members of the Malayan Union Advisory Council appointed by Gent - S.B. Palmer (European), M.L.R. Doraiswamy Aiyer (Indian), Colonel H.S. Lee (Chinese), and C.F. Gomes (Eurasian) - who in turn nominated a member from their own community, respectively, A. Arbuthnot, C.P.R. Menon, Leong Yew Koh and Dr. J.S. Goonting. G.E. Turner from the MCS was appointed Secretary.

40. See Record of the Proceedings of the Preliminary Meeting of Consultative Committee, 19 Dec. 1946, MU 473/C/46.

41. Dato Onn, uncertain about whether Malay members should join the Committee, had asked Gent whether it would be possible to delay the constitution of the Committee until 27 December when he would have had time to consult UMNO at its general meeting immediately after Christmas but was informed by the Governor that it could not be held up until then. See Ibid.

Anglo-Malay proposals and had called for the boycott of the Consultative Committee.<sup>42</sup> Any attempt, therefore, to broaden the scope of the latter beyond what was stated in its terms of reference, it was feared, would inevitably open the Committee to the charge that it was "not representative of sufficient communities". The Governor consequently stressed that the Consultative Committee's primary role of collating views should be "scrupulously observed" and that at no time should the Committee be considered itself a "substitute" for the full consultation which had been promised. What it must do was to "keep up the active tempo so as not to allow the position at any time to drift."<sup>43</sup>

On 28 January 1947 the Consultative Committee accordingly held the first in its series of six public meetings in Kuala Lumpur. Subsequent sessions were convened on 13 February (Penang), 20 February (Malacca), 1 March (Kuala Lumpur), 5 March (Ipoh) and 11 March (Kuala Lumpur) during which the Committee considered some eighty-one letters and memoranda and oral representations from interested associations and individuals. On 21 March the Committee's report, extensively annotated with the full minutes of the six public proceedings, including the complete list of memoranda and representations received by the Committee, was duly submitted to the Governor. Mercifully, as Bourdillon commented, the Committee's recommendations were "a good deal less sweeping than might have been feared" and did not depart fundamentally from the Working Committee's own proposals.<sup>44</sup> Of the latter's 168 clauses and five Schedules, the Consultative Committee found it necessary to recommend amendments to only eleven clauses, and some of these were in fact on points of very minor importance. As O'Connor later commented, "It seems to me remarkable and hopeful that documents of the length and complexity of the Federation of Malaya Agreement and, to a less degree, the model State Agreement, dealing, as they do, with highly controversial topics should have come through with so few suggestions for their alteration."<sup>45</sup>

In fact opinion within the Consultative Committee had not been

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42. Ibid.; see also Gent to Creech-Jones, 20 Dec. 1946, CO 537/1532 no. 50823 Pt V.

43. See Malayan Union, Constitutional Proposals for Malaya: Report of the Consultative Committee together with proceedings of six public meetings, a summary of representations made and letters and memoranda considered by the Committee, (Kuala Lumpur, 1947).

44. Minute by Bourdillon, 27 Mar. 1947, CO 537/2141 no. 52243 Pt I.

45. Proceedings of the Advisory Council of the Malayan Union, 10 Apr. 1947, p. B68.

entirely unanimous with regard to two of its more important recommendations and stormy sessions ensued in private with the two Chinese members - Colonel H.S. Lee and Leong Yew Koh - expressing strong disapproval against the proposals for the composition of the Legislative Council and citizenship. As Gent later reported to Creech-Jones, during the discussions in the Committee "it was clear that the two Chinese members had thought from the beginning that a minority report was inevitable." The "chief cleavage" concerned the number of Malays on the Federal Legislative Council.<sup>46</sup> During its discussions, the Committee had recommended a greatly enlarged Legislative Council with its membership selected, as before, on a functional cum racial and territorial basis but more overtly so in terms of its "racial" composition. But the proportions between the different races, however, would remain roughly the same as in the Working Committee's recommendations. Although no change was envisaged for the number of official members, the Committee suggested a large increase on the unofficial side which would be no less than fifty two compared to the Working Committee's proposal of thirty four, distributed as outlined in Table 9:1 below. What the two Chinese members objected to, however, was the inclusion of the nine Malay Presidents of the State Councils as unofficials, an addition which would swell the Malay presence to a preponderant twenty nine representatives against only fifteen Chinese, giving a ratio of 100 to 51, which would be grossly "discriminatory" and "inequitable" in view of the Chinese's numerical strength, long historical association with Malaya, financial contribution, sacrifices in the development and defence of Malaya, and their vast mining, planting, commercial and industrial interests for which safeguards must be provided. The other members of the Committee, however, were strongly of the opinion that the special rights and interests of the Malays in the country justified special additional Malay representation quite apart from what under normal considerations should be given to them by way of "unofficial" representation. As a compromise, Cheeseman proposed that the additional representation for the Chinese might be obtained by giving the nine Malays "official" status instead which would deprive the Malays of their majority on the unofficial side of the Council and allow a more acceptable Malay-Chinese unofficial ratio of 100 to 75. To this both the Chinese members again

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46. Gent to Creech-Jones, 7 Apr. 1947, CO 537/2141 no. 52243 Pt I.

TABLE 9:1

COMPOSITION OF UNOFFICIAL MEMBERSHIP IN THE LEGISLATIVE COUNCIL  
PROPOSED BY THE CONSULTATIVE COMMITTEE

<u>Unofficial representations by functional and racial interests</u>				
	European	Chinese	Indian	Total
Commerce	2	2	1	5
Planting	2	2	-	4
Mining	2	2	-	4
Labour	-	2	2	4
Education				1
Malay				20
Eurasian				1
Ceylonese				1
Nominated European	1	-	-	1
Nominated Chinese	-	7	-	7
Nominated Indian	-	-	2	2
Settlement Councils				2
	7	15	5	52

Source: Compiled from Report of the Consultative Committee

dissented: if the nine Mentri Besar must enter as official members, they argued, then the total number of the other unofficial Malay representatives should be reduced further from twenty to eleven to compensate for the fact that the Mentri Besar, though officials, nevertheless retained their complete freedom to vote and speak as unofficials. With no compromise acceptable, the Committee finally decided that the full Legislative Council, including the official members, should be either seventy five, as favoured by the majority of the Committee, or sixty six, as proposed by the two Chinese members.<sup>47</sup> (See Table 9:2 below). No disagreement, however, occurred with regard to the composition of the Federal Executive Council and the Committee unanimously recommended that the maximum number of unofficial members should be increased from five to seven "to enable representation to be distributed more widely."<sup>48</sup>

47. Ibid.

48. See Report of the Consultative Committee, p. 8.

TABLE 9:2

COMPARISON OF THE RECOMMENDATIONS OF THE SEVEN MEMBERS OF THE  
CONSULTATIVE COMMITTEE AND THE TWO CHINESE MEMBERS FOR THE  
COMPOSITION OF THE LEGISLATIVE COUNCIL

Recommendations of the seven members	Recommendations of the two Chinese members
<p>A. Officials</p> <p>Ex-officio: 3</p> <p>Nominated: 11</p> <p>Presidents of State Councils: 9</p> <hr/> <p>23</p>	<p>A. Officials</p> <p>Ex-officio 3</p> <p>Nominated 11</p> <hr/> <p>14</p>
<p>B. Unofficials</p> <p>Representatives from Settlement Councils: 2</p> <p>Others: 50</p> <hr/> <p>52</p> <hr/> <p>Total: 75</p> <hr/>	<p>B. Unofficials</p> <p>Representatives from Settlement Councils: 2</p> <p>Others: 49</p> <hr/> <p>50</p> <hr/> <p>52</p> <hr/> <p>Total: 66</p> <hr/>

Source: Report of the Consultative Committee.

Both the Chinese members also found the Working Committee's proposals on the categories for automatic citizenship "grossly unfair" and unacceptable. Taking strong exception to the fact that the other members of the Consultative Committee had recommended no change to the Working Committee's clauses for automatic citizenship, they were particularly piqued by the suggestion in the latter that birth and permanent residence were not sufficient conditions for the conferring of Federal citizenship:

... in almost every civilized country it is the birthright of everyone to regard his birth in any territory as entitling him to citizenship of that territory. To deprive the birthright of a person

49. The Malay allocation of twenty members would be adjusted to include the nine Mentri Besar.

who is born in the Malay States and has residence there is, in our opinion, grossly unfair ... great injustice will be perpetrated against a considerable class of people (estimated at at least half a million) born and permanently resident in the States. There is no valid reason for such discriminatory treatment against this considerable class of people by depriving them of their birthright.<sup>50</sup>

The majority of the Committee members, however, felt that no amendments to the Working Committee's categories were necessary - or indeed possible since they had been "imposed as a compromise and ... could not be satisfactorily amended." All the members of the Committee would have preferred the status of British subject to be attainable throughout the Peninsula and not only in the British Settlements of Penang and Malacca, "but it was realised that this would be unacceptable to the Malays." Rather than risk the outright rejection of the Consultative Committee's report by the Malays, on account of a too liberal extension of the acquisition of citizenship by law, the Committee decided against any amendments.<sup>51</sup> But to assuage the strong feelings of the two Chinese members on the issue, the Committee agreed, as a compromise, to include their minority recommendation in favour of more liberalised qualifications which would confer automatic citizenship on (a) any subject of the Ruler born in his State; (b) any person who was either a British subject or born in the Malay States who was permanently resident in either of the Settlements or any of the Malay States; and (c) any person whose father was, at the date of that person's birth, a Federal citizen.<sup>52</sup> The Committee unanimously agreed, however, that the terms for naturalisation should be made less onerous and recommended that, for persons born locally, the residential period of ten out of fifteen years should be reduced further to five out of ten years; persons born elsewhere, however, needed only eight out of fifteen years. The language qualification, it was further suggested, should be waived for persons over forty-five years of age, who had resided in Malaya for twenty years or longer, and who had applied for naturalisation within two years after the implementation of the new constitution.<sup>53</sup>

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50. Report of the Consultative Committee, p. 182.

51. Gent to Creech-Jones, 7 Apr. 1947, CO 537/2141 no. 52243 Pt I.

52. See Report of the Consultative Committee, p. 11.

53. Ibid.

"There is no doubt", Gent reported to Creech-Jones on 7 April, "that the Chinese members considered that their community would expect them to take the opportunity to make it quite clear (by a statement of the kind they give) that the Chinese resented exclusion from the preliminary discussions." Nevertheless the Governor, in his comments on the minority report by the two Chinese members, argued that the Chinese generally did not have "as good a claim" to be regarded as "sons of the soil" as the Malays who formed the overwhelming bulk of the peasant land-holders of the country and as such were deserving of "primary consideration". While it was also probably true that the Chinese bore a considerably greater burden of taxation than the Malays, Gent pointed out that it was equally correct that a considerable proportion of Malaya's wealth was in their hands: "Payment of taxes is a fair obligation to impose upon wealth so the one consideration off-sets the other." As for the claim that the Chinese "played a much greater part" in the development of Malaya, Gent cautioned against the impression that the role played by the Malay was "negligible." Admittedly, the Chinese fought in the defence of Malaya and bore the brunt of Japanese reprisals during the war, but, as Gent noted, the fact that China was at war with Japan "contributed greatly to this result". The Malays, too, he added, "shed their blood in defence of Malaya and unmistakably showed their loyalty to the British connexion." Taking these considerations into mind, Gent opined that the ratio of 100 Malays to 51 Chinese was "not inequitable"; the ratio of 100 Malays to 75 Chinese, if adopted, would mean that a substantial proportion of Chinese who had not qualified for citizenship would receive political rights and representations on the Legislative Council. What must be borne in mind, Gent added, was that the number of representatives of each community should be proportioned, not on the basis of gross population, but according to the principle that representation should be accorded to those who might be expected to qualify for citizenship. If this principle was adopted, the number of seats allotted to each race was not inequitable, "but is likely to be regarded by Malays as giving undue representation to non-Malay interests."<sup>54</sup>

On the minority recommendation that the citizenship clauses be amended, Gent concurred with the majority of the Committee that any such

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54. Gent to Creech-Jones, 7 Apr. 1947, CO 537/2141 no. 52243 Pt I.

action would be "strongly resisted by the Rulers and the representatives of the UMNO." The terms which had been drawn up by the Working Committee, he reiterated, were not onerous and had been imposed for the purpose of ascertaining whether the person's real home or loyalty was indeed Malaya. While a "great number" of the Chinese were of a "migrant character", whose primary loyalty was found elsewhere, "[n]one of these considerations are applicable to the Peninsular Malays." If adopted, the effect of the Working Committee's citizenship proposals, Gent reasserted, would be to grant citizenship only to those who could claim that their real home and loyalty were in Malaya. The inclination of the local Chinese Consul-General to interfere in matters which were the concern of the Malayan Government, and particularly in the matter of Chinese education in Malaya, Gent added, "provides a warning of the dangers that attend an indiscriminate extension of Malayan citizenship to Chinese."<sup>55</sup> As for the allegation that the citizenship provisions, if accepted in their unamended form, would deprive a large number of non-Malays of their "birthright", O'Connor explained that this had been largely based on a misapprehension: "No one is deprived of a birthright or of any other privilege ... Malayan citizenship is not nationality, it does not affect anyone's national status. ... To advance the view that Chinese born and permanently resident in the Malay States should be 'automatic' citizens is, of course, quite a legitimate view and is one thing; but to base an argument for that view upon a supposition that nationality and birthright are somehow endangered is to base it upon a misconception of the true position."<sup>56</sup>

For the next stage of the discussions, Gent had toyed with the possibility of a joint conference comprising both the members of the Anglo-Malay Working Committee and selected members of the Advisory Council meeting early in April to examine the Cheeseman report prior to a more comprehensive debate by the full Advisory Council towards the end of the month. Such an association of the members of the Advisory Council with the Working Committee, Gent felt, would familiarise them with Malay feelings on all issues and ensure that these would be taken into account during the discussions of the full Advisory Council.<sup>57</sup> Informed of Gent's intentions, Braddell, however, balked. The procedure,

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55. Ibid.

56. Proceedings of the Advisory Council of the Malayan Union, 10 Apr. 1947, p. B.69.

57. Gent to Creech-Jones, 5 Mar. 1947, CO 537/2141 no. 52243 Pt I.



he argued, would place the Advisory Council, a non-Malay body, "over the heads of the Sultans." To Braddell's suggestion that the Advisory Council be asked instead to "make representations to the Working Committee", Gent stiffly replied that it would "equally be a mistake" to allow the Advisory Council to feel that it was being treated as a subordinate machine to the Working Committee. That the former was an entirely non-Malay body, Gent reminded Braddell, was "regrettable" but it was the result of the unilateral decision of the Malays themselves to boycott the Council's proceedings.<sup>58</sup> Reiterating that his procedure in no way impaired the Malay case, Gent argued that it could only contribute to "a spirit of amity and confidence" by demonstrating the Malay's readiness to consider the legitimate claims of the non-Malay domiciled peoples.<sup>59</sup> But given Braddell's objection, neither the Rulers nor UMNO were prepared to compromise. The Sultan of Perak, Gent reported, even suggested that reference of the Cheeseman report to the Advisory Council was unnecessary.<sup>60</sup> Dato Onn, on his part, was particularly worried that the admission of non-Malays at this stage of the negotiations, on a level with the Malay representatives in the Working Committee, would risk reopening the whole constitutional issue. The Malays, Gent observed, were in an "exceedingly apprehensive mood" reinforced partly by their natural fear of giving any recognition to non-Malay aspirations and partly also because of their anxiety not to compromise their position as one of the only two contracting parties in the new Federation. Nevertheless, he was not "unduly depressed": "It would have been a great advance", Gent rationalised, "if we could have taken them this far, but it shows that a further stage will have to be reached before they achieve the necessary confidence."<sup>61</sup>

The "next best thing",<sup>62</sup> the Governor suggested, was to convene separate discussions, first with the Advisory Council, and later with the Working Committee and Plenary Conference. But while the Colonial Office appreciated the rationale for keeping the Plenary Conference to the end, it had some doubts about the procedure of discussing the Cheeseman report in the Advisory Council before the Working Committee, a

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58. Gent to Braddell, 21 Mar. 1947, Ibid.

59. Gent to Creech-Jones, 24 Mar. 1947, CO 537/2174 no. 52761.

60. Gent to Creech-Jones, 22 Mar. 1947, CO 537/2141 no. 52243 Pt I.

61. Gent to Creech-Jones, 23 Mar. 1947, CO 537/2174 no. 52761.

62. Gent to Braddell, 21 Mar. 1947, CO 537/2141 no. 52243 Pt I.

course which seemed to Paskin "to be liable to create the impression ... that the Advisory Council was in fact being treated as a subordinate machine to the Working Committee."<sup>63</sup> Moreover, in the enforced absence of Malay participation in the Advisory Council, or means to acquaint the latter with Malay reactions to the report, any debate in the Council, surmised Creech-Jones, would seem "somewhat unreal".<sup>64</sup> After subsequent discussions with the Malays, the Government might then be placed in the "awkward" position of not only having to negotiate separately with both the Malays and non-Malays but also having to submit proposals differing substantially from those endorsed by the Advisory Council, and on which the latter would not have had the opportunity of expressing its views, thus incurring the risk "of being blamed by both parties" if their views could not be reconciled and placing both the Government and HMG in a difficult position before public opinion and Parliament.<sup>65</sup>

Writing privately to Lloyd, Gent intimated that the Malay attitude had rendered any other course impossible: "The fact is that the Malays will have the very minimum to do with the Advisory Council ... [T]hey will risk no tactics which give any colour to a suggestion that they are not the last word here before recommendations to the Secretary of State." Admittedly, his task before the Advisory Council would be "rather delicate" but both Newboulton and O'Connor had also advised that the Government must avoid any commitment to the Cheeseman report or other modifications of the draft proposals which had been accepted by the Rulers and UMNO. "We shall break the party if that should happen", the Governor warned. He therefore hoped that he could be given some "rope" to manoeuvre in this "tricky business".<sup>66</sup> Reluctantly, the Colonial Office consented: "[W]e can only wish Sir E. Gent luck in handling the situation with which he is faced."<sup>67</sup>

Accordingly on 10 April the Advisory Council was convened for a special session to discuss the Cheeseman report. The meeting proved in fact to be only a formality. At Newboulton's prompting, the Cheeseman proposals were endorsed en bloc for transmission to the Colonial Secretary and the Rulers for their consideration. Legally, such a

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63. Paskin to Lloyd, 29 Mar. 1947, Ibid.

64. Creech-Jones to Gent, 1 Apr. 1947, Ibid.

65. Minute by Bourdillon, 27 Mar. 1947, Ibid.

66. Gent to Lloyd, 4 Apr. 1947, Ibid.

67. Minute by Bourdillon, 10 Apr. 1947, Ibid.

course, O'Connor rationalised, was "constitutionally correct" since the contracting parties concerned only the Crown, representing the two Settlements, and the Rulers, on behalf of their States. The real reason was more pragmatic and tactical. The Government was anxious not to be embroiled in any detailed discussion of the Cheeseman recommendations, which might unwittingly tie their hands, before these could be discussed with the Malays. The Government's tactic apparently worked for Council members, on their part, were equally anxious to have the "exceedingly controversial" matter taken off their hands. "To take a vote on each of the proposals", remarked Dr. Ong Chong Keng, a member of the Advisory Council, "will not serve any useful purpose because there are bound to be many different views on the many controversial points. It will merely make confusion more confounded." No doubt the Government's efforts to have only the most cursory debate on the Cheeseman report were facilitated, in part, by the absence of Colonel H.S. Lee, one of the two authors of the dissenting minority report and also a member of the Advisory Council, who was then away touring Europe. Whatever debate Lee's presence might have inspired went by default by his absence, although three other Chinese members of the Advisory Council (Dr. Ong Chong Keng, Dr. Tan Cheng Leng and Dr. Soo Kim Lan), as a gesture of Chinese solidarity rallied behind his minority report. Perhaps more importantly, the Advisory Council, at the Governor's prompting, also unanimously resolved that HMG's "pledge" of full and free consultation with all interested parties before reaching final decisions on the constitutional framework of the country had been "fulfilled" by the evidence collected and presented by the Consultative Committee's report and that all that remained was for the Government and the Rulers to assess the merits of the Cheeseman recommendations before working out an agreed constitutional settlement.<sup>68</sup> Given Gent's earlier statement to the Committee that it should not be considered as a "substitute" for the full consultation which had been promised, the Advisory Council's resolution marked a significant volte face on the Government's part. Although Gent had envisaged a further stage in the constitutional negotiations involving all the interested parties, and not just the Malays, it was apparent that by 10 April, pressed by the Malays, he had decided to back away. By closing the door to further representations by the non-Malays Gent

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68. Proceedings of the Advisory Council of the Malayan Union, 10 Apr. 1947, pp. B61-B72.

ensured that henceforth the Government needed only to deal with the Malays. The interests of the non-Malays, by then, had become peripheral.

The Colonial Office found the Cheeseman recommendations of a Legislative Council of seventy five "impossibly unwieldy" at first but saw "nothing objectionable" at the principle per se of a larger representative Council. Not only would a clear and definite unofficial majority place Malaya more in line with progressive developments in the Colonial Empire in general and Singapore<sup>69</sup> in particular, but it would also, rationalised Bourdillon, provide the Secretary of State with "valuable material" for maintaining in Parliament that the full and free consultation undertaken by the Cheeseman Committee, far from being a "mere farce", had actually resulted in concrete improvements.<sup>70</sup> For the Colonial Office, the crux of the problem, however, lay elsewhere - in particular, on its effect on the position of the Malays vis-a-vis the other races in the Council. Compared with the Working Committee's proposals, the Cheeseman's recommendations involved "a slight but noticeable diminution of the Malay preponderance on the Council."<sup>71</sup> If the minority report by the two Chinese members were taken into consideration, an even further diminution of Malay pre-eminence would have to be contemplated.<sup>72</sup>

Observing that the minority report involved also a "considerable" alteration in the entire structure of the citizenship proposals, the Colonial Office was grimly pessimistic about Malay acquiescence to the proposals. Bourdillon's conversations with Colonel H.S. Lee, then in London, on 9 April, on the other hand, had impressed upon him that such an alteration was "the least which the more stable elements amongst the Chinese population would accept." Unless this "discrimination" was removed, Lee had strongly pressed, the matter could inevitably "play into the hands of elements concerned with distracting the loyalty of Malaysians (Chinese and Indians) from Malaya."<sup>73</sup> The outlook, as Lloyd sullenly ruminated, was not bright: "It is clear that even if accommodation can be found ... upon those strictly constitutional issues

69. The constitutional evolution of Singapore would be discussed in detail in Chapter 10.

70. Minute by Bourdillon, 14 Apr. 1947, CO 537/2141 no. 52243 Pt I.

71. Ibid. Under the Working Committee's proposals the Malays would outnumber the Chinese three to one; under ~~the~~ Cheeseman recommendation this would be reduced to about two to one.

72. Ibid.

73. Minute by Bourdillon, 10 Apr. 1947, Ibid.

where there are now differences of opinion, there will remain a very considerable gap, which it will be extremely difficult to bridge ... over the issue of citizenship."<sup>74</sup> For the moment the Colonial Office decided against any action: everything now hung on the outcome of the discussions with the Malays scheduled to begin on 17 April.

### III

From January to March 1947, while the Cheeseman Committee held its public meetings and collated evidence for its report, Dato Onn, on his part, had also been canvassing support for the Working Committee's proposals from within the ranks of UMNO. As Gent later reported, Dato Onn's "personal triumph and leadership"<sup>75</sup> were decisive in enabling him to persuade UMNO delegates at its general assembly from 10 to 12 January at Alor Star, Kedah, to accept the constitutional proposals without any major changes. Amendments were found necessary only on nineteen out of a total of 168 clauses and five long Schedules. For the Legislative Council, UMNO wanted the unofficial representation to be increased from thirty four to thirty six to provide for Malay members from Penang and Malacca. No changes were envisaged for the categories for automatic citizenship, although, for naturalisation, it was proposed that an adequate knowledge of Malay (instead of either English or Malay) was essential. What UMNO found unacceptable was the Secretary of State's power of decision over immigration policy. In the event of any serious disagreement on the subject between the High Commissioner and the majority of the Rulers, UMNO recommended that the execution of the policy should not then be pursued unless the former, on reconsideration, submitted fresh proposals acceptable to the Rulers.<sup>76</sup>

UMNO's amendments to the Working Committee's proposals were despatched to Gent on 17 February. In his covering letter to the Governor, Dato Onn warned that, despite his efforts to keep the Malays from becoming anti-British, Malay opinion was "getting extremely restive and highly suspicious" of British sincerity. Britain, Onn intimated, "must choose now between Malay support and coöperation or sacrificing them to political expediency" :

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74. Lloyd to Creech-Jones, 12 Apr. 1947, Ibid.

75. Gent to Creech-Jones, 6 Feb. 1947, Ibid.

76. See UMNO's amendments to the draft Federation Agreement, n.d., in MU 294/V/46.

You will remember asking me whether there was any possibility of the UMNO and the MNP getting together. My reply was not at the moment but the future trend of Malay action will depend entirely on the outcome of the Proposals which UMNO has accepted in principle. Undue pandering to elements who do not conform to the conception of Federal citizens or to any attempts to further minimise the legitimate rights and the special position of the Malays will have disastrous repercussions.

I cannot conceal from you that the Malays will undoubtedly swing wide into a coalition with parties definitely anti-British if only because of frustration and despair at British hypocrisy.<sup>77</sup>

On 23 February Government and UMNO officials met to discuss UMNO's amendments. Gent assured Dato Onn that there were no strong objections from the Government side to the increase of unofficials but, as he anticipated an increase "all round" after the completion of the Cheeseman Committee's findings, he urged that the subject should perhaps be postponed until after the exact proposals were known. On the question of the Malay language requirement for naturalisation, Gent, referring to the position of the Settlements, pointed out that "it could not fairly be claimed that the English language should not have an equal status in the Federation with Malay". UMNO's amendment to the immigration clause, Gent further added, would mean "placing the Rulers in the forefront of a first class political controversial issue". If the Secretary of State's power of decision was unacceptable to the Malays, then the only other alternative, Gent submitted, was to put the responsibility for policy on the Legislative Council. The matter, however, would have to be referred to HMG for a decision.<sup>78</sup>

In the meantime the Anglo-Malay Working Committee was reconvened on 17 April to discuss the Cheeseman report which had been transmitted by the Advisory Council a week before. Although both the Working Committee and the Consultative Committee had made no explicit recommendation for the introduction of elections in the Legislative Council, Braddell surmised that the lack of precise reference to HMG's "intention to provide for self-government in the future" was "bound to be criticised

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77. Onn to Gent, 17 Feb. 1946, Ibid.; see also UMNO/SG no. 17/47 and A.J. Stockwell, British Policy and Malay Politics During the Malayan Union Experiment 1942-1948, (Kuala Lumpur, 1979), pp. 95-96.

78. See Minutes of Conference, 23 Feb. 1946, MU 294/V/46.

in Parliament."<sup>79</sup> He suggested that this shortcoming could be easily rectified by the insertion of an appropriate formula in the preamble to the Agreement or in some other way. This was accepted by O'Connor and Newbould who proposed that the drafting of a suitable formula be left to the legal sub-committee. Dato Onn then remarked that the Consultative Committee had been silent regarding the reasons which prompted it to suggest the increase of unofficials from five to seven in the Federal Executive Council, although he surmised that it might be to balance the numbers of officials and unofficials. After further discussion the Committee accepted O'Connor's suggestion that the clause should be amended to include "not less than five or more than seven" unofficials so as to cater for a seat for the Eurasians on the Federal Executive Council.<sup>80</sup>

The following morning the Working Committee tackled the amendments proposed for citizenship. Linehan revealed that his own investigations<sup>81</sup> had produced some practical anomalies in the application of the citizenship clauses. A British subject born in the Settlement, but otherwise residing in the Malay States, would not be able to qualify for automatic citizenship under the existing proposals which required him to be permanently resident in either of the Settlements. The Committee consequently accepted Linehan's suggestion that the clause should be amended so that the period of residence could be in "any of the territories now to be comprised in the Federation." Turning to the minority report, the Malay representatives and Braddell felt that the proposed amendments, admitting to automatic citizenship British subjects "wherever born" who completed fifteen years residence in the Federation, had been too widely

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79. Minutes of CWC, 17 Apr. 1947, MU 294/A/46 Vol III. Clause 69 in the December 1946 Working Committee report, for instance, mentioned only HMG's intention "in due course to cause to be introduced" election of members to the Legislative Council. The Consultative Committee, on its part, was "unanimously of the opinion that the country is not ready at present for the introduction of election of members to the Federal Legislative Council and, therefore, does not recommend the immediate introduction of elections throughout the Peninsula." (See Report of the Consultative Committee, p. 11).
80. Newbould recalled that the claim for representation had been made by the Eurasians to the Consultative Committee. Braddell noted also that the Eurasians, like the Malays, had no alternative allegiance and were therefore deserving of consideration. Dato Onn agreed with this view.
81. Linehan had sent specimen forms covering the various citizenship clauses to all the States and Settlements in an experiment to determine whether there were any anomalies.

drawn. As neither the Government nor Malay members were then prepared to reopen the citizenship issue, they agreed that, apart from Linehan's amendment there should be no further changes. Now that the Committee had done its "duty" in fully discussing the minority proposals, Braddell rationalised, it should accept the majority report.<sup>82</sup>

Moving to the Cheeseman Committee's proposals for naturalisation, both Newbould and O'Connor argued for a lowering of the residence period for persons born in the Federation. Although Newbould was prepared to abide by the original prescription of fifteen years out of twenty years for persons born outside the Federation (against ten out of fifteen years suggested by the Cheeseman Committee), he maintained that "some weight" should be given to the circumstances of birth in the Federation in calculating the period of residence. Such a concession, O'Connor urged, would have "a good public effect." Dato Onn, however surmised that if the period was reduced to five out of ten years, as the Cheeseman report proposed, the terms of naturalisation might, in some respects, be "better off" than those claiming it automatically. A compromise of eight out of ten years was considered by Braddell as reasonable, provided there should be a provision prohibiting application until the age of eighteen; otherwise, he feared, the public might assume that a boy of ten, who would under the Cheeseman proposals be entitled to apply for citizenship, would also be entitled to political rights. Dato Onn, however, was still nervous, fearing an "outcry" from the Malays if the residence period was thus reduced. His proposal of eight out of twelve years was acceptable to the Working Committee which also agreed to the minimum age limit of eighteen years for applicants. As a quid pro quo the Malays conceded that persons over forty five years of age, who fulfilled certain residential and administrative conditions, would be exempted from the language requirement.<sup>83</sup>

Reassembling that afternoon, the Working Committee examined the Consultative Committee's proposals for the composition of the Legislative Council. Dato Onn saw no objection from the Malay side to an enlarged unofficial representation but reiterated that the allocation of seats should be proportioned according to the estimated racial distribution of Federal citizens rather than, as claimed by the Chinese, on the basis of gross population. Unless the Malays could be assured of an unofficial majority, Dato Onn warned that he would rather be at the "mercy of an

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82. Minutes of the CWC, 18 Apr. 1947, MU 294/A/46 Vol III.

83. Ibid.



Official Majority." Under the Cheeseman proposals, Dato Onn observed, Malay unofficials numbered only twenty against thirty non-Malays; even if the nine Mentri Besar were included as unofficials, the Malays would still be in a minority.<sup>84</sup>

Keeping in mind the Cheeseman proposal of fifty two unofficials (or sixty one if the nine Mentri Besar were included), both Newbould and O'Connor suggested the following day that the balance could be tipped by increasing the Eurasian representation to two at the expense of one Chinese seat; since the former would "probably support the Malays", since they also had no alternative homeland, the Malays could then be assured of a "hidden" majority vis-a-vis the other races. Alternatively, if this was still inadequate, the total number of unofficials could be raised by one by earmarking another Education cum Cultural seat to the Malays. These additions would give thirty Malays and two Eurasians against thirty others in a total unofficial membership of sixty two. The Malay representatives, however, remained unassured. As Haji Mohamed Sheriff forcefully argued, the Malays "could not rely on Eurasian votes and should have a Malay majority of Unofficials."

Undeterred, O'Connor next proposed that both the Labour and Education cum Cultural categories be increased by one Malay seat each and that, if essential, one nominated Chinese seat should be deleted. This would balance some thirty one Malays against thirty two or thirty one non-Malays (depending on whether the Chinese seat was excluded). Looking ahead to the passage of the proposals through Parliament, O'Connor cautioned that it would certainly be politically unwise to reduce the Chinese representation by "more than one". Braddell concurred - he did not want a Royal Commission imposed upon Malaya. In that case, Dato Onn considered that such a representation would not be adequate for the Malays whose interests, he feared, would be "sacrificed" to the Chinese who had already "shown their hands" in the minority report that they "wanted to possess this country."

Confronted by Onn's resistance, O'Connor subsequently modified a recommendation by Godsall that the Malays be given an extra three seats drawn from an addition of two more seats to the Labour category and another from the Education cum Cultural group. There would therefore be thirty two Malays balanced against thirty two non-Malay unofficials in a total Council membership of seventy eight compared to the Consultative

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84. Ibid.

Committee's figure of seventy five. The Working Committee, however, demurred at the increase in the size of the Council beyond the Cheeseman Committee's own recommendations. Since the former in its own published proposals in December 1946 had advocated a much smaller Council the sudden volte-face could prove politically inexpedient in public. As Braddell counselled, it would be "tactically wise" to adhere to the overall figures of the Cheeseman report.

The Working Committee subsequently considered a proposal by E.E.F. Pretty (Secretary) based on an amended classification drawn up earlier by Dato Onn which would give the Malays thirty seats against the non-Malays' twenty nine with another two seats reserved for the two representatives of the Settlement Councils who would be selected by the members of the Councils themselves. (See Table 9:3). Since the proposals would give a total Council membership of seventy five - in line with the Cheeseman report's own figures - the Working Committee readily accepted the recommendations as a suitable compromise.<sup>85</sup>

A revised report of the Working Committee, incorporating the new amendments, was subsequently discussed at the Plenary Conference on 24 April. No difficulties were encountered with the citizenship amendments which the Conference quickly approved. The increase in the number of unofficials in the Federal Executive Council was also accepted subject to the provision that, if the members numbered more than five, then not less than three should be Malays. The Conference also decided that the Presidents of the Malay Councils of State and the Representatives of the Settlement Councils should be placed in a category distinct from either official or unofficial members, but given precedence immediately after the ex-officio members, so that, while holding "official" positions, they would nevertheless have complete freedom to speak and vote as they think fit. The Malays, however, wanted their preponderance of unofficials in the Legislative Council to be sustained. Arguing that almost all padi farmers were Malays, Sultan Aziz urged that one more Malay seat should be allocated for "Agriculture". UMNO representatives wanted two more Malay seats for "Agriculture" and another for Indian Muslims under "Commerce". If accepted, Sultan Aziz's proposal would give the Malays thirty one seats against twenty nine for the non-Malays and leaving the racial composition of the two seats from the representatives of the Settlement Councils still undecided. UMNO's recommendations, on the other

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85. Minutes of CWC, 19 Apr. 1947, Ibid.

TABLE 9:3

REVISED COMPOSITION OF UNOFFICIAL MEMBERSHIP IN THE LEGISLATIVE COUNCIL PROPOSED BY THE WORKING COMMITTEE

Unofficial representation by functional and racial interests					
	European	Chinese	Indian	Malay	Total
Commerce	2	2	1	1	6
Planting					
a. Rubber-oil palm					
Public Company	2	1	-	-	3
Small holdings	-	1	-	-	3
b. Agriculture and					
Husbandry	-	2	-	5	7
Mining	2	2	-	-	4
Labour	-	2	2	2	6
Education-Cultural	1	1	1	1	4
States	-	-	-	9	9
Settlements	-	1	-	1	2
Nominated Eurasian					1
Nominated Ceylonese					1
Nominated Indian	-	-	1	-	1
Nominated Chinese	-	2	-	-	2
Nominated European	1	-	-	-	1
	8	14	5	21	50

Source: Compiled from Minutes of CWC, 19 Apr. 1947, MU 294/A/46 Vol III.

hand, would ensure a clear Malay-Muslim majority. Following MacDonald's caution against deviating too significantly from the Cheeseman proposals and Gent's entreaty that it was expedient to "keep some fluidity and that there was no need to fix [everything] in legal language", the Conference agreed to forward the proposals for the Secretary of State's consideration.

Considerable discussion then followed on two other amendments which were of great significance to both the Malays and HMG: immigration policy and the right of the Rulers to concur to the appointment of successive High Commissioners. If immigration was to be a subject reserved for the Legislative Council, in consultation with the Conference of Rulers, the Malays wanted assurances that, in the event of an impasse, the High Commissioner's power of advice would not be exercised. Unless this concession was granted, Dato Onn feared that "vested business interests in London" might induce the Government to impose a "fatal" immigration policy on Malaya, generating conditions reminiscent of

Palestine. Alternatively, the final authority on immigration questions could rest with the Conference of Rulers. Both recommendations were unacceptable to the Government. Newbould urged that the power of advice "should not be impaired as it was inherent in the Agreement." It was also undesirable that the Rulers, as constitutional monarchs under the new constitution, should be dragged to the forefront of a political issue "which might cover them with the dust of the arena." To this the Sultan of Perak sharply retorted: the Rulers, he fumed, were "prepared to enter the arena on behalf of their people." MacDonald quickly interposed to smooth feelings by proposing that the Secretary of State, who would, after all, be obliged to protect the special position of the Malays under the Federation Agreement (a provision which could, of course, be interpreted to include immigration), should be made the "final arbiter", provided he could be urged to give an undertaking, which would not land him in Parliamentary difficulties, that a major change of immigration policy would not be imposed on the Malays against their will. Both Dato Onn and Braddell accepted MacDonald's compromise. If such an assurance could be obtained, Braddell opined, "matters should be easy to arrange."

The Malays, however, were less conciliatory on the question of the Rulers' concurrence in the appointment of the High Commissioner, a matter which affected the prerogative of their Sultans. As both the King and the Rulers delegated powers to the High Commissioner, so the argument ran, it seemed only appropriate, in the spirit of "partnership", that the Rulers should have a say in his appointment. Neither O'Connor, Gent nor MacDonald, however, saw much likelihood of this "very considerable innovation" being accepted by HMG, not only because it impaired the King's sovereignty to appoint whom he wished but also because of fears that it would create a dangerous "precedent" which would land HMG in difficulties elsewhere. Dato Onn snapped: if the Government was jealous of His Majesty's prerogative, what about the Ruler's own prerogative? What was suggested was not a partnership "but the dictation of a partnership". MacDonald again assured the Malays that he would represent their views to the Secretary of State in a way which would reflect the "strength of Malay feeling" on the issues.<sup>86</sup>

The Working Committee's revised report was accordingly submitted

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86. Proceedings of Plenary Conference, 24 Apr. 1947, MU 294/X/46.

to the Colonial Office in May.<sup>87</sup> Creech-Jones welcomed the firm undertaking in the report calling for elections to be introduced in the Legislative Council as soon as circumstances permitted. Observing that some "slight" modifications had been made to the citizenship clauses and that the Malays had gone some way to meet the Consultative Committee's recommendations, Creech-Jones expressed satisfaction that these had fulfilled his objective of "common citizenship". The increase in the unofficial majority in the Legislative Council was also an "undoubted advance". And on the question of the racial composition of the Council, the Colonial Secretary did not consider that the Malays were "asking more than is justified by their essential position in the country":

In the absence of recent census figures, it cannot be said whether the Malays form an absolute majority of the population in the territories now comprising the Malayan Union; but there is no doubt that they form an absolute majority amongst those who really belong to the country, who will qualify for citizenship, and who are justified in demanding a stake in the country's future.

Partly to accommodate Malay demands at the Plenary Conference for a clear unofficial majority, Creech-Jones accepted the inclusion of another Malay member under "Agriculture and Husbandry" but only by reducing the European seat by one under the category "Nominated European". The Malays could therefore be ensured of twenty two seats in a total unofficial representation of fifty, or thirty one seats out of a combined unofficial and "State and Settlement" membership of sixty one. With another fourteen officials, the overall Legislative Council would have the same number as in the Cheeseman proposals: seventy five.<sup>88</sup> Although the Malays had pressed for a higher majority, the Colonial Office recoiled, partly because, as Gent explained later to the Rulers, HMG had to be "sensitive to general opinion, and have to be careful to limit the effect of criticism from various directions."<sup>89</sup> For this reason, Creech-Jones wanted his support for the Working Committee's recommendations to be "closely linked" with

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87. I have been unable to trace the related policy files for the period May to Aug. 1947. Presumably these are CO 537/2142 no. 52243 Pt II and CO 537/2143 no. 52243 Pt III, both of which are closed until the year 2022. I have, however, been able to locate a Cabinet memo. written by Creech-Jones which offered some useful insights about the CO's decision to accept the Federation proposals. See memo. by Creech-Jones, 28 Jun. 1947, FO 371/63517.

the proposals for the early introduction of elections:

The fact remains, however, that these functions and interests have been chosen with the avowed object of producing certain fixed proportions as between races, and I can only accept this system, which is obviously far from ideal, provided it begins to give place in the near future to a system of elections whereby representation is demonstrably based upon the will of the people. I do not think the Malays have anything to fear from the introduction of elections ...<sup>90</sup>

On immigration, the Colonial Secretary conceded that it would be "wrong" to deny the Malays the substance of their claims although he confessed that the degree of economic prosperity depended to a large extent on the immigration into Malaya of other races. He subsequently agreed to a scheme proposed by Gent whereby the High Commissioner would consult the Conference of Rulers on any important or "major" changes in immigration policy which he proposed to introduce, and if the latter could not be brought to agree to any particular change, the matter would then become subject to a resolution by the unofficial and State and Settlement members of the Legislative Council. If the resolution sustained the objections of the Conference of Rulers, no further action would be taken unless the High Commissioner was able to certify that such action was essential in connection with the external affairs or defence of the Federation - matters on which HMG continued to exercise jurisdiction. As expected, Creech-Jones also refused to countenance the right of the Rulers to concur in the appointment of successive High Commissioners but he agreed with Gent's tactical recommendation that HMG's negative decision on the issue should be conveyed together with the acceptance of the proposals as a whole.

The next step was to secure Parliamentary backing for the new policy. Strictly speaking, Parliamentary approval was constitutionally unnecessary as no new legislation was required.<sup>91</sup> But given the nature

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88. Ibid.

89. Proceedings of the Plenary Conference, 16 Jul. 1947, MU 294/AD/46.

90. Memo. by Creech-Jones, 28 Jun. 1947, FO 371/63517. The introduction of elections had also been strongly recommended by Ivor Thomas, Under-Secretary of State, in his report to the CO after his visit to Malaya from 9 to 16 Feb. 1947. Ivor's report probably played some part in influencing Creech-Jones' decision. See report by Thomas, 22 Feb. 1947, CO 537/2175 no. 52784.

91. In the case of the Malayan Union scheme it was constitutionally necessary to seek Parliamentary approval because the repeal of the Straits Settlements Act required new legislation. See Minute by Bourdillon, 13 Oct. 1947, CO 537/2144 no. 52243 Pt IV.

of the constitutional issue and the interest generated both in Malaya and London, any attempt to bypass Parliament at this stage would have almost certainly evoked strong public "displeasure" against the Colonial Office. Informed, however, that pressure from other Parliamentary concerns had totally precluded any possibility of a debate on the Federation proposals, Creech-Jones found himself in a difficult dilemma: either he could postpone the decision until the next session in autumn or he could take a firm decision without waiting for a debate and risk Parliamentary censure. Pressed by both Gent and MacDonald that an immediate settlement was essential, Creech-Jones chose the latter course.<sup>92</sup> On 28 June he circulated a memorandum to the Cabinet, outlining the Federation proposals, and recommended that the new policy be approved by HMG, subject to the satisfactory agreement on all outstanding points. To assuage Parliamentary feelings, Creech-Jones intimated that, as soon as agreement was reached with the Malays, an announcement would be made in Parliament and a summary of the proposals would be published as a White Paper, so that Parliament, if it so wished, could have the opportunity of commenting on it on that occasion.<sup>93</sup> On 3 July the Federation scheme was finally endorsed by the Cabinet.<sup>94</sup> without any Parliamentary debate.

No serious difficulty was encountered on the Malay side. HMG's proposals were generally accepted by the Plenary Conference which had been reconvened on 16 and 17 July. On immigration policy, the Malays accepted MacDonald's assurance that the new High Commissioner would be "especially sensitive" to Malay feelings and his undertaking that if doubts surfaced concerning the interpretation of what constituted "major" changes in policy these would then be referred to the Conference of Rulers. Though disappointed, the Malays nevertheless also acceded to HMG's decision that questions about the "ultimate appointment" of the High Commissioner rested solely with the King. As a face-saving gesture, Sultan Aziz urged that, before such an appointment was made, the Rulers should be informed of the identity of the prospective High Commissioner. UMNO, however, expressed "neither agreement nor disagreement" with the decision.

The only matter which stoked Malay anxieties was a last-minute suggestion by the Colonial Office to insert a new clause admitting any

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92. See Lloyd to MacDonald, 26 Sep. 1497, Ibid.

93. CAB 129/19 CP (47) 187.

94. CAB 128/10 CM (47) 59.

person born in the Federation "who habitually speaks the Malay language and conforms to Malay custom" to automatic citizenship. MacDonald assured the Malays, however, that HMG harboured "no ulterior design" in forwarding this proposal. It was mainly to ensure that non-Muslim Malays would not be discriminated in their entitlement to citizenship, and was not devised to open a back-door for non-Malays. Indeed, as Gent emphasised, the provision requiring habitual conformity to Malay custom would impose a "severe test" on any Malay-speaking Straits Chinese, for instance, from qualifying under this category. But failure to accept it, MacDonald argued, might "result in the world being told that Malaya was a country which discriminated against persons who did not subscribe to certain religious views." Once such a charge had been made, he added, "no reply which Malaya might make ... would be able to eradicate the bad impression which would have been created." It was precisely a point of principle like this which might arouse a "lively debate" in Parliament and present HMG with an awkward situation over which it might eventually be defeated in the House. In any case, Gent explained, the number of non-Muslim Malays who might be affected by this clause would be "almost certainly infinitesimal."

Braddell suggested that the clause should be augmented by the requirement of "permanent residence" to bring it in line with the qualifications for British subjects and counter any criticism of discrimination. Gent replied that such an amendment would precisely fuel the criticisms which the clause had been designed to avoid - namely, that non-Muslim Malays were denied an equal basis of admission as Muslim Malays. Since nearly all Malays were permanent residents in Malaya, such an affixture, reasoned O'Connor, was also superfluous. The Malays, nevertheless, were still nervous: won't the deletion of the residential requirement afford British subjects with yet another rationale to press for a similar exemption on constitutional grounds? Dispelling such misapprehensions, Gent vigorously reiterated that HMG had already accepted the principle of permanent residence for British subjects. With that assurance, the Malays finally consented to the clause as originally drawn up by the Colonial Office.<sup>95</sup>

On 21 July, with the negotiations successfully completed, a summary

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95. Proceedings of the Plenary Conference, 16 and 17 Jul. 1947, MU 294/AD/46.



of the proposals was accordingly published as a White Paper<sup>96</sup> and Parliament was subsequently informed of this "happy result" by Creech-Jones during the debate on the colonial estimates on 29 July. To the Colonial Office's great relief, Parliament did not press for a debate on Malaya although Creech-Jones assured the House that, if necessary, an opportunity could be arranged for Parliament to comment on the Federation policy during the autumn session.<sup>97</sup> The only significant comment came from the Tory MP for West Bristol, Oliver Stanley, a former Colonial Secretary himself, who remarked that, from his "cursory glance" of the new proposals, they appeared to "depart very considerably from the fundamental principles which were laid down only a year ago." Even so, Stanley assured the House that he was "by no means averse to them."<sup>98</sup> Nevertheless it was clear that by July 1947 HMG had indeed "crossed the Rubicon".<sup>99</sup> As Bourdillon later asserted: "Whether or not a debate takes place depends largely on the Opposition but in any case it cannot affect the issue." HMG's decision to accept the Federation scheme in July 1947, he added, was "indeed firm".<sup>100</sup>

#### IV

In Malaya, opposition to the Federation had also been gathering momentum. Roused by Tan Cheng Lock the Associated Chinese Chambers of Commerce (ACCC),<sup>101</sup> stepped up its criticisms of the Federation proposals. In a telegram<sup>102</sup> to both Creech-Jones and Attlee on 28 February 1947 and another memorandum<sup>103</sup> to the Colonial Office on 25 March 1947, both drafted by Tan Cheng Lock,<sup>104</sup> the ACCC rehearsed familiar PMCJA

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96. Federation of Malaya: Summary of Revised Constitutional Proposals, Cmd. 7171 (Jul. 1947).

97. Parliamentary Debates, H.C., 29 Jul. 1947, Col. 269.

98. Ibid., Col. 285.

99. See Lloyd to MacDonald, 26 Sep. 1947, CO 537/2144 no. 52243 Pt IV.

100. Bourdillon to Gent, 2 Oct. 1947, Ibid.

101. Although the ACCC had long been critical of the proposals it had refused to co-operate with the PMCJA, which it felt was communist inspired, or participate in the boycott of the Consultative Committee. The Perak, Selangor, Malacca and Singapore Chinese Chambers of Commerce accordingly submitted memoranda to the Consultative Committee.

102. ACCC to Creech-Jones, 28 Feb. 1947, CO 537/2145 no. 52243/2 Pt I.

103. Lee Kong Chian to Creech-Jones, 25 Mar. 1947, Ibid.

104. Minute by O.H. Morris, 4 Jul. 1947, Ibid.

arguments and called on the British Government to appoint a Royal Commission to draw up a new constitution on the spot. Assured, however, by the Governor that claims of widespread opposition were untrue<sup>105</sup> and that there had not been any appreciable demand for a Royal Commission - most people pressing instead for the early establishment of a stable Government<sup>106</sup> - the Colonial Office agreed that no detailed reply was necessary: any rebuttal, it felt, might "unduly enhance the prestige" of the ACCC.<sup>107</sup>

Partly to enhance its own credentials as a truly multi-racial body, the PMCJA started also to woo back the MNP. Since its formal inauguration on 22 February 1947<sup>108</sup> the MNP-sponsored PUTERA had maintained a loose<sup>109</sup> association with the PMCJA, partly drawn by their shared opposition to the Federation scheme. By mid-April, however, both conglomerates had agreed to combine in a more formal relationship to contest the constitutional proposals. Thus, on 13 April at a public meeting in Taiping, Perak, both groups declared their intention to work "unitedly" to defeat the Federation scheme and to convene a "People's Conference" to draw up an alternative "democratic constitution".<sup>110</sup>

The Government, however, was unimpressed and in July 1947 a summary of the constitutional proposals was accordingly published. Stunned by the Government's determination to impose the new policy in total disregard of its views, and compelled also by a sense of belated "defensive nationalism",<sup>111</sup> the ACCC moved finally to align itself with the now

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105. Gent to Creech-Jones, 10 Apr. 1947, Ibid. (Savingsram no. 15)

106. Gent to Creech-Jones, 10 Apr. 1947, Ibid. (Savingsram no. 16)

107. Minute by Morris, 4 Jul. 1497, Ibid.

108. In its telegram to the Colonial Office, PUTERA asserted that it had rejected in toto the Federation proposals. It demanded the dissolution of the Consultative Committee, urged the Rulers and UMNO to reject the constitutional recommendations, and called on the Government to begin fresh negotiations with all interested political bodies. See Creech-Jones to Gent, 13 Mar. 1947, CO 537/2145 no. 52243/2 Pt I.

109. The Malayan Security Service reported on 15 Mar. 1947, for example, that it was still "not year clear whether or not this Party is collaborating with the Council of Joint Action". MSS/PIJ 15 Mar. 1947, p. 35.

110. See note by Joint Secretaries to Gent, n.d., CO 537/2145 no. 52243/2 Pt I.

111. MSS/PIJ 31 Oct. 1947 (Supplement), p. 1. According to Gent, the ACCC's opposition arose because of its dissatisfaction with (1) the Malay majority of unofficials in the Legislative Council, (2) the "unduly restrictive" Federal citizenship provisions, and (3) Malay control of immigration policy. See Gent to Creech-Jones, 4 Nov. 1947, CO 537/2144 no. 52243 Pt IV.

renamed AMCJA-PUTERA<sup>112</sup> coalition. On 19 July came the first suggestion of the adoption of Indian tactics of fighting the constitution. The Malayan Security Service noted, for instance, that in a speech to the MDU on that day, Gerald de Cruz, a member of the AMCJA-PUTERA Secretariat, openly called for a civil disobedience campaign against the British. Both Tan Cheng Lock and himself, De Cruz declared, were "prepared to go to gaol" to prevent the Federation's implementation.<sup>113</sup> On 17 August, delegates of some 120 associations, guilds, Chinese firms, trade unions and the Chinese Chamber of Commerce in Malacca unanimously resolved to stage a future "hartal" to protest against HMG's "breach of faith" in breaking its pledge of full consultation.<sup>114</sup> The ACCC also moved into action on 25 August with a stern telegram to the Colonial Office expressing its "utter disappointment" at the "retrogressive" constitution "wilfully" imposed on the people of Malaya "in the teeth of strong and determined opposition" and reiterated its demand for a Royal Commission.<sup>115</sup> Preceded by two local hartals in Malacca and Perak on 9 and 25 September respectively, the AMCJA-PUTERA and the ACCC on 20 October finally launched an impressive country-side hartal which paralysed nearly all the main towns in Malaya. Writing to Creech-Jones a few days later, Lee Kong Chian explained that, "yielding to popular demand", the ACCC had "no choice" but to demonstrate its displeasure at the revised constitutional scheme. "The marked quietness of the day", he added, "was significant of the genuine bitterness felt by a large number of responsible people".<sup>116</sup>

In terms of deflecting the British from their commitment to Federation, however, the hartal was a complete failure. Indeed, as we have seen, by July 1947 both Gent and the Colonial Office had already

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112. The ACCC suspected that the term "Pan-Malayan" denoted communist domination while PUTERA interpreted "Malayan" to include only non-Malays. It was finally decided to rename the coalition the All Malaya Council of Joint Action (AMCJA). See Yeo, p. 44.

113. MSS/PIJ 31 Oct. 1947 (Supplement), p. 3.

114. See text of resolution by Tan Cheng Lock and Goh Chee Yan, 17 Aug. 1947, CO 537/2146 no. 52243/2 Pt II.

115. Lee Kong Chian to Creech-Jones, 25 Aug. 1947, *Ibid.*

116. Lee Kong Chian to Creech-Jones, 25 Oct. 1947, CO 537/2147 no. 52243/2 Pt III.

decided that Federation was irreversible. On 7 July Creech-Jones had already communicated his "firm and irrevocable"<sup>117</sup> acceptance of Federation to the Governor who, on his part, had also given Dato Onn an "almost complete assurance"<sup>118</sup> during the Plenary Conference on 17 July.

After nearly fifteen months of difficult negotiations, which had to some extent wore down Malay suspicion of British good faith and intention to implement the Federation scheme, Gent understandably was in no mood for any fundamental changes so late in the day.<sup>119</sup> Indeed from July 1947 any policy reversal would have been both personally and politically unthinkable for him. Assured by the Rulers and UMNO at the Plenary Conference on 17 July that the Malays would warmly support and welcome his designation as the first High Commissioner of the new Federation, Gent was in fact already looking ahead to his appointment to that "exalted position".<sup>120</sup> When no confirmation arrived from the Colonial Office - which had taken his appointment "for granted"<sup>121</sup> - Gent, for example, anxiously queried Bourdillon in September: "Should I be right in thinking that it is intended that I should be the High Commissioner (and Commander-in-Chief)?"<sup>122</sup> Perhaps more than anyone else Gent had a personal commitment to ensure the success of the Federation scheme. A second volte-face would have been unacceptable to the Governor who seemed by temperament more than usually affected by the blast of public criticisms. MacDonald, for example, in one instance found it necessary to cheer up the Governor by urging him to "ignore" adverse attacks on him personally in the press, rationalising that these were often "nothing more than symptoms of a passing state of nerves amongst the public":

I do hope that you do not worry about the criticisms unduly ... I have got accustomed to paying little heed to either criticism or praise from newspapers. Sometimes, of course, the critics are right, and I try to learn lessons from them. But then I am a

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117. See discussion in Lloyd to MacDonald, 26 Sep. 1947, CO 537/2144 no. 52243 Pt IV.

118. Proceedings of the Plenary Conference, 17 Jul. 1947, MU 294/AD/46.

119. Gent to Bourdillon, 16 Oct. 1947, CO 537/2144 no. 52243 Pt IV.

120. Gent to Bourdillon, 18 Sep. 1947, Ibid.

121. Minute by Bourdillon, 13 Oct. 1947, Ibid.

122. Gent to Bourdillon, 18 Sep. 1947, Ibid.

tough politician! and you have hitherto  
led the sheltered life of a civil servant.<sup>123</sup>

Whatever the Governor's personal stake in the Federation scheme, he adopted an uncompromising position throughout in his dealings with the anti-Federation movement. There is a hint that his constant, if overly anxious, entreaties to the Colonial Office to hasten the time-table for the implementation of the Federation scheme might indeed have been a bit too over-zealous for Bourdillon's liking. "I have no desire to be unnecessary pugnacious", Bourdillon fumed, "but honestly I think Sir Edward Gent sometimes fails to appreciate the efforts made on his behalf in this Office ... It is clearly in Sir Edward Gent's own interests that he should come to understand that we are actively supporting him, and not merely tagging along behind."<sup>124</sup>

Of more fundamental importance were the political considerations which made any significant accommodation of the anti-Federation movement improbable, if not impossible. Unlike UMNO, which had mobilised almost all Malay opinion under its wings, the AMCJA-PUTERA-ACCC was a coalition seriously weakened not only by ideological differences but also by their "inability to reconcile their different interests",<sup>125</sup> to present a constructive programme for change or to mobilise the non-Malays into an effective opposition bloc.

Although the AMCJA-PUTERA had indicated in April their intention to draw up a "counter-constitution", it was only in October<sup>126</sup> that an agreed version of the People's Constitution was finally published - by then too late to deflect the Government from its chosen course. Even so, as Gent noted, the ACCC had not identified itself with the proposals.<sup>127</sup> Neither was the People's Constitution a constructive document from the Government's point of view. The AMCJA-PUTERA's proposals for a Melayu citizenship, Linehan thought, were "unrealistic, futile, and in parts

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123. MacDonald to Gent, 3 Oct. 1947, MacDonald Papers 16/10.

124. Minute by Bourdillon, 17 Oct. 1947, CO 537/2144 no. 52243 Pt IV.

125. Gent to Bourdillon, 4 Oct. 1947, CO 537/2148 no. 52243/2/1.

126. *Ibid.* The People's Constitution was first presented at a mass rally at Farrer Park in Singapore on 21 Sep. 1947. On 4 Oct. 1947 Gent reported that the AMCJA-PUTERA were still "pulling a draft about" owing to their inability to agree on a final version.

127. Gent to Creech-Jones, 4 Nov. 1947, CO 537/2144 no. 52243 Pt IV.

dangerous." He added: "Does any sane man believe that the Malays will acquiesce in non-Malay residents arrogating to themselves this name or that the great bulk of the non-Malays will agree to having themselves designated as Melayu?" By recommending that citizenship should also be a nationality, the opposition had ignored the impossibility of any Chinese divesting himself of Chinese nationality, and by making every person born in Malaya ipso facto a Melayu citizen it had unwittingly opened the door for "all our young black-mailers, gang-robbers, murderers and other criminals born in Malaya" - most of whom were non-Malays - to become automatic citizens, unless they chose to make a "sworn declaration before a magistrate" that they did not desire citizenship, a likelihood Linehan thought incredible! Having become citizens, they could not then be deprived of that status or suffer banishment. As for the conception of an elected sovereign Federal Legislative Assembly, where there "shall be no communal electorates, candidatures, representatives or allocation of seats", Linehan urged that, if elections were free, voting in Malaya would almost certainly proceed along communal lines; and if there were to be no communal representation, minority communities like the Eurasians and Ceylonese would almost certainly be left unprotected since the High Commissioner's reserved powers would also be stripped under the proposed People's Constitution. Although the Malays would be given the "privilege" of having fifty five per cent of the seats, this would only be extended for the first three assemblies (totalling nine years). In fact, as Linehan asserted, this constituted "a rope nine years long with which to hang themselves" for, after the period of grace, with no restriction on immigration, the Malays would be swarmed by the locally-born non-Malays who under the citizenship proposals would be given "indiscriminate citizenship". The powers of the proposed Council of Races to protect against discriminatory legislation by the Assembly, on the other hand, would in fact be "negligible" since it was the Assembly that would elect the members of the Council.<sup>128</sup> The Colonial Office agreed with Linehan's assessment. The People's Constitution, minuted Morris, only paid "lip service" to inter-communal accord and betrayed the "irresponsibility" of its authors:

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128. See Linehan's comments on the People's Constitution, 23 Sep. 1947, CO 537/2148 no. 52243/2/1.

it is not an attempt to grapple with the real difficulties of making the communities of Malaya live side by side and take each their due part in the progress and welfare of the country, but an academic exercise. It is a typical production of people unaccustomed to political power and responsibility, and either unaware of, or unwilling to face, the real difficulties of personal and racial animosities, and of economic rivalries, which make Malayan politics so confused and the problem of settling a stable constitution so intractable.<sup>129</sup>

Nor was the AMCJA-PUTERA opposition a popular force as UMNO was in 1946. In his reports to the Colonial Office, Gent, for instance, consistently denigrated the "mass" meetings of the AMCJA. Claims by the ACCC<sup>130</sup> that the Federation proposals had been "most strongly opposed" by nearly all sections of non-Malay opinion were also frequently met by Gent's retort that the revised Anglo-Malay proposals in fact "command the support of the great majority of those people who may expect to have a legitimate claim to political rights in the Federation."<sup>131</sup> Certainly after July 1947 there was little point for the Governor to state otherwise. Indeed, Gent's almost reflex dismissal of the strength of the opposition in his frequent reports to the Colonial Office brought a guarded response from Bourdillon: "With all respect", he minuted to Ivor Thomas, the Under-Secretary of State, "I am not sure that Sir Edward Gent does not slightly underestimate the volume of Chinese opposition to some features of the Federation scheme, and particularly to the exclusion of Singapore."<sup>132</sup> But, like the Governor, the Colonial Office was also anxious not to rock the boat. As Bourdillon recorded two weeks later: "It is always difficult to avoid wishful thinking, but I believe it may fairly be said that this estimate [of the unrepresentative nature of the opposition] still remains true." There was "no indication that this opposition is really widespread or deep-rooted."<sup>133</sup> Even after the opposition's impressive display in calling the hartal in October, both Gent and the Colonial Office were inclined to attribute its "success" primarily to the widespread fear of "intimidation" and "reprisals".<sup>134</sup>

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129. Minute by Morris, 13 Nov. 1947, Ibid.

130. See, for example, Lee Kong Chian to Creech-Jones, 25 Aug. 1947, CO 537/2146 no. 52243/2 Pt II.

131. Gent to Creech-Jones, 29 Aug. 1947, Ibid.

132. Bourdillon to Thomas, 30 Sep. 1947, Ibid.

133. Bourdillon to Rees-Williams, 13 Oct. 1947, Ibid.

134. Gent to Creech-Jones, 3 Nov. 1947, CO 537/2144 no. 52243 Pt IV.

Perhaps more significantly, in British eyes, the AMCJA-PUTERA, far from being the expression of a cohesive Malayan reaction against the Federation proposals, was in fact a MCP front organisation, inspired and led by the MCP. Although the MCP was not directly represented in the AMCJA-PUTERA,<sup>135</sup> its influence was nevertheless strongly suspected by the Malayan Security Service. The MCP, the latter observed, was the "driving force" which "engineered united action" by all the other "subsidiary forces" against the Federation proposals.<sup>136</sup> The Malayan Security Service noted, for instance, that early on in August 1946 it was the MCP which had issued confidential instructions in a working plan for the establishment of a "common front" in a "united organisation" for the "racial emancipation of Malaya" from British rule. Observing that the moment was then "opportune" given public dissatisfaction with the "reactionary imperialist policy", the MCP memorandum urged party members to "work hand in hand" with the people of the three main races and the various political organisations so as to gain time, conserve and increase the strength of the party, and to increase its prestige by supporting the opposition in the constitutional struggle so as to openly discredit the Government. The MCP should therefore "infiltrate secretly" into organisations like the MDU and MNP - its "allies" - and "help their activities". As for "pro-British" parties like UMNO, the MCP called on its members to "seize every opportunity to make use of their occasional anti-British sentiments and discredit their leaders."<sup>137</sup> Following the press reports early in November 1946 of MacDonald's trip to London later that month to secure Whitehall's approval of the Anglo-Malay proposals, two MCP operatives, Liew Yit Fun and Chai Pek Siang on 19 November 1946 met Ahmad Boestamam and Musa Ahmad of the MNP, together with two other non-Malay leaders, H.B. Talalla and Khoo Teik Ee, and Gerald de Cruz, a founder member of the MDU, representing the communist-controlled newspaper, Democrat, for talks concerning the formation of a united front. Once that was agreed, Gerald de Cruz was then despatched to Malacca to invite Tan Cheng Lock to chair the then CJA.<sup>138</sup> Both

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135. This was presumably to avoid giving the body an overtly communist aura.

136. MSS/PIJ 31 Oct. 1947, p. 1.

137. See "Decision of Central for a Working Plan", 22 Aug. 1946, in MSS/PIJ 30 Sep. 1946, pp. 4-7.

138. Yeo, p. 36. Of the 12 organisations represented at the second meeting of the PMCJA on 5 Jan. 1947, Gent observed, for instance, that 7 were "under the control" of the MCP: these included the MDU, Pan-Malayan Federation of Trade Unions, Singapore Women's Federation, Selangor Women's Federation, MPAJA Ex-Service Association, Dravidian Federation of Selangor, and the New Democratic Youth League. See Gent to Creech-Jones, 9 Jan. 1946, CO 537/2150 no. 52243/5.



Gerald de Cruz and two other members of the AMCJA-PUTERA Secretariat, G. Rao and Chan A. Yang, the Malayan Security Service further noted, were all members of the MCP. It was De Cruz "who manipulates Tan Cheng Lock and Tan Cheng Lock who stirs the Chinese Chamber of Commerce."<sup>139</sup> Tan, though not a MCP member, was nevertheless a "MCP puppet" who "allows his name to be used".<sup>140</sup> Both the MDU and MNP were also, observed MacDonald, "strongly tainted with Communism."<sup>141</sup> Although the ACCC had been at pains to portray its opposition as a "spontaneous effort unconnected with political motives or parties", the Malayan Security Service surmised that, unconsciously perhaps, the ACCC had been "all along stimulated by MCP injections":

It is known that the MCP is quite prepared to 'co-operate' with capitalists for a common objective for so long as it suits the Party to do so, and while there is no doubt that the Chinese have a strong 'defensive Nationalist' motive of their own it was a very slow one to awake; it was an MCP puppet, Tan Cheng Lock, who stirred it to action ... it is fair to say that without MCP inspiration and MCP enlistment of the masses the hartal would never have taken place and the Chinese campaign would probably have been on a far milder scale.<sup>142</sup>

British perception of the communist inspiration of the opposition instinctively precluded any concessions to the anti-Federation movement. Instead, it fortified British resolve to ensure the success of the Federation scheme. As MacDonald declared at a secret conference in June 1947, Communism was "Enemy No. 1" and any accommodation of the latter would correspondingly strengthen the MCP and weaken the Government. A quick constitutional settlement, he argued, "would have the effect of lowering the temperature and weakening the [MCP] propaganda."<sup>143</sup> Conversely, any delay in implementing the Federation scheme, Gent asserted, would inevitably enable the MCP to become "dangerously

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139. MSS/PIJ 31 Oct. 1947 (Supplement), p. 2.

140. Bourdillon to Rees-Williams, 13 Oct. 1947, CO 537/2146 no. 52243/2.

141. See minutes of Conference chaired by MacDonald, 26 Jun. 1947, Dalley Papers.

142. MSS/PIJ 31 Oct. 1947 (Supplement), p. 2.

143. See minutes of Conference chaired by MacDonald, 26 Jun. 1947, Dalley Papers.

strengthened and encouraged."<sup>144</sup> If the Government had been charged with "unwarranted haste" in pushing through the Federation proposals, Gent replied that this was justified since any prolonged delays in the establishment of a stable Government would be "very unfortunate."<sup>145</sup> To reopen the constitutional wound by appointing a Royal Commission, as demanded by the ACCC, Gent added, would not only "perpetuate that state of uncertainty from which the Country is now being rescued" but would also, argued the Colonial Office, "play into the hands" of the MCP.<sup>146</sup> The AMCJA-PUTERA anti-Federation campaign, Gent concluded, "is essentially a Left Wing campaign, with which is interwoven a Chinese racial campaign ... it emphasises the importance of our dissipating at once any lingering doubt that the new constitution is to come into force."<sup>147</sup>

Part of Gent's concern, shared also by MacDonald and the Colonial Office, stemmed also from his assessment that any prolonged uncertainty about the constitutional settlement would only result in "very serious repercussions" with the Malays.<sup>148</sup> Although Dato Onn and his principal colleagues in UMNO "fully understood the position" and had "no qualms" about the firmness of HMG's commitment to implement the Federation scheme, the rank and file of UMNO, however, had not been similarly assured, partly owing to the effectiveness of opposition propaganda that Parliament had so far not consented to the Federation scheme and that a further debate was therefore imminent before a decision could be finally reached. In such an atmosphere, MacDonald reported, it was quite "impossible to convey any widespread recognition that the constitution is finally settled."<sup>149</sup> That such a situation of uncertainty was potentially explosive was also recognised by the Colonial Office: any erosion of Malay confidence in British sincerity and good intentions as a result of frustrations at Britain's failure to implement the Federation scheme, Bourdillon argued, might well force the Malays "into channels of 'pan-Indonesian' (and anti-European) development, as opposed

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144. Gent to Bourdillon, 16 Oct. 1947, CO 537/2144 no. 52243 Pt IV.

145. Gent to Creech-Jones, 29 Aug. 1947, CO 537/2146 no. 52243/2 Pt II.

146. Thomas to Fletcher, 23 Sep. 1947, Ibid.

147. Gent to Creech-Jones, 4 Nov. 1947, CO 537/2144 no. 52243 Pt IV.

148. Gent to Bourdillon, 16 Oct. 1947, Ibid.

149. MacDonald to Lloyd, 30 Sep. 1947, Ibid.

to peninsula progress in friendship with Britain" - a development which would be politically disastrous for Britain's position in Malaya. If such an eventuality actually developed, Bourdillon added, "we might as well clear out of Malaya tomorrow."<sup>150</sup>

Until July 1947, attempts by the MNP and other pro-Indonesian<sup>151</sup> organisations in Malaya to mobilise Malay sympathy behind pan-Indonesian themes had not been widely successful largely because of the pre-eminence of UMNO in Malay politics and the latter's refusal to be embroiled in Indonesian affairs.<sup>152</sup> The failure to implement the Linggadjati Agreement and the onset of Dutch "police action" in the NEI on 20 July 1947,<sup>153</sup> however, evoked fresh outbursts of pro-Indonesian sympathies which UMNO found impossible to ignore. Whereas Dato Onn in June 1947 had rejected proposals by the MNP for aid to Indonesia, now he was compelled to declare in a speech at the Indonesian Red Cross meeting at Singapore on 27 July that UMNO would ensure that such aid was despatched as soon as possible: "Now is the time for the people of Malaya to show their true feelings towards the Indonesians."<sup>154</sup> In the Colonial Office, UMNO's rapprochement with the pro-Indonesian forces was viewed with concern by O.H. Morris, who feared that the party would be drawn into the "heady attractions of a revolutionary struggle on the Indonesian model." "It would be most unfortunate", he added, "if continued disturbed conditions in the NEI attracted the more fervent nationalists from the ranks of UMNO into those of the MNP." If Dutch "aggression" persisted, the danger from Indonesia would correspondingly increase. Conversely, if a completely independent Republic was established, whether by the efforts of the Indonesian nationalists themselves, or by the good offices of the United Nations, "Malay nationalists will be able to point with envy at a fellow-people emancipated by violence from Colonial rule." Either way, Britain would be faced with a difficult dilemma. The failure of the Linggadjati Agreement, on the other hand, could only "discredit the methods of peaceful political evolution". So far, Britain's success in

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150. Minute by Bourdillon, 18 Sep..1947, CO 537/2146 no. 52243/2 Pt II.

151. For discussion of Indonesian influences in Malaya see MSS/PIJ 30 Jun. 1947 (Supplement); also Stockwell, pp. 131-134.

152. By keeping Indonesian sympathies at bay, UMNO had hoped to cut the ground from beneath the MNP. It had also no desire to be made a "pawn" in the Indonesian "game". Note by Morris, N.D. (probably in Sep. 1947), CO 537/2177 no. 52834.

153. See G.M. Kahin, Nationalism and Revolution in Indonesia, (Ithaca, 1952), pp. 196-212.

154. See note by Morris, n.d., CO 537/2177 no. 52834.

arriving at a negotiated settlement with the Malays had maintained and even restored her position in Malaya. It was therefore important that the Malays should be strengthened in their commitment to the peaceful constitutional process, the "only satisfactory" course open to Britain at present.<sup>155</sup> Any impression that Britain was not "playing straight with them" or even back-peddalling on the terms of the Federation Agreement could "radically" change existing Malay quiescence into more extreme modes of political dissent.<sup>156</sup>

On 14 October 1947 the Working Committee was consequently reconvened for a brief period to discuss all outstanding drafting points.<sup>157</sup> The possibility of implementing the new Federation by 1 January 1948<sup>158</sup> was discussed with the Colonial Office which warned, however, that the need for an "exhaustive examination"<sup>159</sup> of the various clauses in the Federation proposals and the fact that its legal advisers were "overwhelmed with work"<sup>160</sup> with other constitutional developments (such as that in Ceylon) all but ruled out a January deadline. Bourdillon's suggestion of 1 April 1948 - the anniversary of the return of the Civil Government -, however, "positively frightened" Gent, who strongly urged that HMG should not deviate from its original target date.<sup>161</sup> Partly to assure the Malays, Gent reiterated at the Plenary Conference on 12 November that HMG's decision to implement the Federation scheme was "final": "No threats or hartals or any other means of bringing pressure to bear would make [HMG] change their mind."<sup>162</sup> Malay suspicions, nevertheless, persisted. A day before the Plenary Conference met again on 10 December to approve the final recommendations, the Singapore edition of the Malaya Tribune, citing "authoritative" sources, declared in bold headlines that MacDonald's intended visit to London in January 1948 was brought about basically by the need to "acquaint the Secretary of State at first hand with details of the rapidly deteriorating political situation in Malaya" and marked a recognition locally that the Federation scheme "can only be

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155. Ibid.

156. Minute by Bourdillon, 13 Nov. 1947, Ibid.

157. Minutes of CWC, 14 Oct. 1947, MU 294/A/46 Vol III.

158. This date had been foreshadowed in the Dec. 1496 Working Committee report. See Report of the Working Committee, p. 14.

159. See1 to Gent, 25 Oct. 1947, CO 537/2144 no. 52243 Pt IV.

160. Bourdillon to Gent, 20 Oct. 1947, Ibid.

161. Gent to Bourdillon, 26 Oct. 1947, Ibid.

162. Proceedings of the Plenary Conference, 12 Nov. 1947, MU 294/AN/47.

implemented at the risk of creating widespread and permanent dissatisfaction among all communities."<sup>163</sup> Referring to the Malaya Tribune report, Dato Onn angrily asked: what use was there in continuing discussions if there were already proposals for altering the Constitution to meet Chinese opinion? Gent's explanation that the report had "no official backing" and was instead a "pointer to the propaganda" of the opposition then engaged in a campaign to wreck the scheme failed to calm Dato Onn who bluntly asserted that "it might also be a pointer that forces which the Malays had thought were working for them were in fact working against them." Declaring himself "still unconvinced" and that he had "no confidence left" in the assurances of the British Government, Dato Onn demanded to see the Order-in-Council in its final form before signing the Federation and State Agreements to assure himself that no changes prejudicial to Malay interests had been made. To Gent's warning that this would almost certainly make it impossible to introduce the Federation on 1 January 1948, Dato Onn remained undeterred.<sup>164</sup> The Colonial Office was piqued that Dato Onn was "at the bottom of the trouble"<sup>165</sup> but accepted Gent's explanation that the latter's "truculent behaviour" was due more to "mere strain and intolerance rather than to any deep laid plot."<sup>166</sup> In any case, Creech-Jones advised Gent that HMG should not "regard ourselves as debarred from showing the Malays that we react unfavourably to somewhat childish suspicion on their part. In the difficult days ahead of them Malays will have much to gain by preserving the goodwill of His Majesty's Government. At heart I expect they realise this, but an occasional gentle reminder might be salutary."<sup>167</sup>

A month behind schedule, the Federation of Malaya finally displaced the Malayan Union on 1 February 1948.

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163. Malaya Tribune, 9 Dec. 1947.

164. Proceedings of the Plenary Conference, 10 Dec. 1947, MU 294/AQ/46.

165. Creech-Jones to Gent, 16 Dec. 1947, CO 537/2144 no. 52243 Pt IV.

166. Minute by Bourdillon, 3 Jan. 1948, Ibid.

167. Creech-Jones to Gent, 16 Dec. 1947, Ibid.

## CHAPTER TEN

CONSTITUTIONAL DEVELOPMENT IN SINGAPORE AND THE  
"UNION" QUESTION: 1945-1948

I am more and more convinced that the policy of excluding Singapore for the time being from the Malayan Union is the right one. ... I am doubtful whether long-term interests will in fact work towards union. I think they may well work away from it, and I see nothing repulsive in the indefinite continuance of Singapore as a separate Colony ...

H.T. Bourdillon, 18 January 1946.

## I

While British negotiators grappled with the problems of finding the Malayan Union's successor in the Mainland, the constitutional framework for Singapore - as well as wider considerations of the Island's future inclusion in the Federation - also exercised the minds of planners both in London and the Colony.

When Japan surrendered in August 1945, the constitutional plans for Singapore, as we have seen in Chapter Four, were still largely undecided. Although the wartime Coalition Government had by then been succeeded by a Labour Government, the broad outlines of the policy for Singapore were, nevertheless, generally acceptable to George Hall, the new Colonial Secretary, although he felt that the mode of election by representative organisations - rather than by individuals - of unofficials to the Legislative Council appeared "somewhat reactionary" and that, on political grounds, it would seem more desirable to defer any decision on the composition and mode of election of unofficials until after local opinion had been consulted. The proposed amalgamation of the Rural Board with the Municipal Commission, similarly, should be postponed until after the newly constituted Legislative Council had studied the recommendations.<sup>1</sup>

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1. Minute by Monson, 3 Nov. 1945, CO 273/675 no. 50823/17; see also C.M. Turnbull, "British Planning for Post-War Malaya", JSEAS, 5,2 (Sep. 1974), 251-252.

The DCCAO (Singapore), P.A.B. McKerron, in the meantime, was also having second thoughts. His three months' experience in administering Singapore had convinced him that any merger scheme of the Municipality and the Rural Board would be administratively unworkable since the friction which had existed previously would remain and "would in fact be accentuated with the extension of the Municipality's power over the whole Island". McKerron saw the solution in the Central Government eventually absorbing the functions of the Municipality with the latter becoming a department in the Government, or, conversely, enabling the Government to take over and administer the various departments of the Municipality. "What has helped to convince me I am right", he remarked, "is that the BMA has in fact engulfed the Municipality and I have been administering its departments direct since my arrival, and it works." Admittedly, the move would be drastic and McKerron hoped to deal with public reaction to the proposed absorption of the Municipality by recommending an enlarged unofficial representation from eleven to sixteen in the Legislative Council, giving the unofficials a majority of six.<sup>2</sup>

Like McKerron, the CCAO (Malaya), H.R. Hone, had also extolled the merits of a single constitutional organ governing the Island, but unlike the former, Hone had envisaged enlarging instead the former Municipality into a single Island Council with full legislative powers although its executive functions would be delegated to specialist Boards presided by officials and unofficials elected from the Council.<sup>3</sup>

By December 1945, however, the Colonial Office was in no mood for such eleventh hour changes - or for what it termed "novel" and "experimental" proposals. Anxious to finalise constitutional details before the Second Reading of the Straits Settlements (Repeal) Bill scheduled for January 1946, a reassessment of its plans at this stage was impossible. As Gater asserted: "We cannot change at this late hour."<sup>4</sup>

The White Paper published on 22 January 1946 consequently reaffirmed HMG's resolve to reconstitute the Municipal Commission "with the minimum delay" once its sphere of authority and basis of

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2. Memo. by McKerron, 30 Nov. 1945, CO 273/675 no. 50823/17.

3. Memo. by Hone, 5 Dec. 1945, Ibid.

4. Minute by Gater, 22 Dec. 1945, Ibid.

representation had been decided. Also held over until after local opinion had been consulted were questions concerning the composition of the Executive Council and the appointment and election of members to the Legislative Council. Until the inauguration of the new constitution, the White Paper proposed that Singapore should be governed by the Governor who would be empowered to legislate with the help of an Advisory Council whose members would be selected on a broadly representative basis.<sup>5</sup>

Pressed by Parliament during the debate on the Straits Settlements (Repeal) Bill, a more detailed summary of the constitutional proposals was published in a revised White Paper on 4 March 1946. It noted that the Advisory Council would include the Colonial Secretary, the Attorney-General, Financial Secretary and "any other persons" whom the Governor saw fit to appoint. Apart from the Governor, the Executive Council would consist of four ex-officio members (the Colonial Secretary, Attorney-General, Financial Secretary, and the President of the Municipal Commissioners), two official and four other unofficial members appointed by the Governor. The question of an unofficial majority in the Legislative Council was, however, kept open<sup>6</sup> and the White Paper proposed an "official" representation that would include the four ex-officio members and up to seven nominated members. The maximum number of unofficials would also be eleven: not more than two nominated and nine elected members. The Governor once again was urged to complete "as soon as possible" his local consultations leading to the formal institution of the Executive and Legislative Councils.<sup>7</sup>

Soon after the establishment of Civil Government on 1 April, a Committee was duly appointed by the Governor, F.C. Gimson,<sup>8</sup> on 11 April

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5. Malayan Union and Singapore: Statement of Policy on Future Constitution, Cmd. 6724, (Jan. 1946).
  6. Some apprehension had been expressed by the Governor-designate, F.C. Gimson, about the probable "obstructive attitude" of the unofficials if they were given a majority in the Legislative Council at a time when economic grievances amongst the population had been stoked by the post-war shortages. See Gimson to Paskin, 29 Jan. 1946, CO 537/1545 no. 50823/17.
  7. Malayan Union and Singapore: Summary of Proposed Constitutional Arrangements, Cmd. 6749, (Mar. 1946), pp. 7-9.
  8. Gimson joined the Ceylon Civil Service in 1914 before becoming Colonial Secretary, Hong Kong in 1941. After the liberation of Hong Kong from Japan, Gimson acted for a short period as OAG, Hong Kong, before becoming Governor of Singapore in April 1946.



to make recommendations for the proposed Legislative Council. Chaired by McKerron, now Colonial Secretary, the Reconstitution Committee<sup>9</sup> held discussions on 16 April, 17 and 24 May, and on 4, 12 and 18 June, during which representations from the public were considered in Committee. Its report was finally submitted to the Governor on 8 August. Concentrating primarily on the subject of the elected unofficial members, the report proposed that the maximum number of nine should be adopted. Given that the "future prosperity of Singapore is most closely linked with trade", the majority of the Committee recommended that three of these members should be elected by the various Chambers of Commerce, in particular, by the Singapore Chamber of Commerce and the Singapore Chinese Chamber of Commerce - each electing one representative - and the remaining seat elected by a conglomerate consisting of the Indian Chamber of Commerce, the South Indian Chamber of Commerce and the Chettiars' Nattukkottai Chamber of Commerce. Three members of the Committee, however, dissented on the grounds that the recommendations would put too much power in the hands of the commercial interests.<sup>10</sup> Of the remaining six elected members, the Committee rejected the communal basis for representation and pressed that they should be elected by popular ballot of registered voters. The franchise would be extended to persons over the age of twenty one, irrespective of standard of literacy or private means, but it would be stipulated that voters should be British subjects and should have resided in Singapore for at least three months prior to the first election and one year in subsequent elections. Singapore would thus be divided into electoral districts, of which two would be in the Municipal area (each electing two representatives) and two in the Rural districts (each electing a member).<sup>11</sup>

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9. The other members of the Committee included: G.W. McL. Henderson, Acting Attorney-General, W. Bartley, President of the Municipal Commissioners, and all the six unofficial members of the Advisory Council: G.A. Potts, Wee Swee Teow, Paul Sammy, Abdul Samat, Tan Chin Tuan and E.R. Koek. Owing to the resignation of the former three members during the period of the Committee's deliberations, three new members were added: E.M.F. Fergusson, M.J. Namazie and Sir Han Hoe Lim. G.E. Bogaars, and, subsequently, R.W. Jakeman (MCS) acted as Secretaries.
  10. The three were lawyer Wee Swee Teow, medical practitioner Dr. Abdul Samat, and banker Tan Chin Tuan.
  11. Report of Committee to Gimson, 8 Aug. 1946, CO 537/1560 no. 50823/40. A revised version of the report was later published in September 1946. See Report of the Committee for the Reconstitution of the Singapore Legislative Council, (Singapore, 1946).

The Governor generally welcomed the report. Accepting the majority report, Gimson argued that the reservation of three seats for the Chambers of Commerce was "essential to the stability of the structure of the new Council". Until forecasts of the political responsibility of the electorate could be tested in practice, "precautions against irresponsibility are of fundamental importance" and it was therefore important to "safeguard against a too radical disturbance of interests represented on the former Legislative Council." Noting that the report had pressed for the maximum of nine elected unofficials, Gimson proposed that the number of nominated officials should be kept to only five to ensure an unofficial majority. Admittedly, such a course might possibly involve difficulties in the enactment of financial legislation (such as income tax), but the converse was equally undesirable: passing such legislation with the aid of an official majority would be no less odious than if the Governor had indeed used his reserved powers. The best hopes of securing the passage of these enactments, Gimson asserted, lay in the election of members on a wide franchise since the proceeds of such taxation, for instance, were likely to benefit the poorer members of the electorate. If an unofficial majority was not granted, "the advance towards self-government by the grant of universal suffrage will not be appreciated, and ... the sense of responsibility of the members so elected would not be sufficiently promoted if they considered their votes ... were not factors of influence in any decision." Gimson accordingly proposed that a committee should be appointed immediately to draft legislation for the registration of voters and that the appointment of Gerald Hawkins, recently retired from the MCS, should be confirmed as registering officer. The only aspect of the report which the Governor disagreed was the recommendation to grant the voting age at twenty-one years and above. The turmoil of the Japanese occupation, and the unrest arising from the post-war food shortages, Gimson feared, might have unwittingly "shaken the faith" of many of these younger men in the merits of western democracy so that they could not, therefore, be expected to vote responsibly. If the voting ceiling was raised to twenty five years of age and above, he believed that this would be "acceptable to the saner elements of the people."<sup>12</sup>

Though not wanting to dissent from the Committee's "novel and far

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12. Gimson to Hall, 19 Sep. 1946, Ibid.

reaching"<sup>13</sup> proposals, the Colonial Office felt that some amendments were nevertheless called for. Since all four electoral districts would contain a large majority of Chinese, it seemed highly probable that all six members returned would be Chinese. As it was expected that one European, an Indian and a further Chinese member would be returned by the Chamber of Commerce, the total elected membership of the Council would possibly include seven Chinese to the complete exclusion of the Malay and Eurasian communities. Given that the Malays formed about ten per cent of Singapore's population in 1941,<sup>14</sup> outnumbering even the Indians, their exclusion from representation would seem an anomaly and could present political difficulties vis-a-vis the Malayan Union.<sup>15</sup> It was true that the provision of two nominated unofficials afforded some means for redressing the racial balance but this would hardly seem adequate to satisfy the claims of the Malays and the Eurasians or to secure the services of additional European unofficials in the Council. The only practicable solution, as the Colonial Office saw it, was to increase the provision for nominated unofficials from two to possibly four. The privileged representation of the Chambers of Commerce also presented some problem for Creech-Jones who inquired why trade unions were not similarly included.<sup>16</sup> Lloyd explained that the inclusion of these latter bodies would inevitably entail a reduction in the elected membership since, otherwise, there would be a serious risk of a Legislative Council so far to the Left as to shake business confidence in the Island.<sup>17</sup> The Governor's recommendation of an increase in the minimum voting age, however, was not accepted by the Colonial Secretary: any departure from the unanimous decision of the Committee might "cause particular disappointment locally".<sup>18</sup> Subject to these changes, the Committee's main proposals, and the Governor's support for an unofficial majority, were accepted by the Colonial Secretary and endorsed by the

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13. Minute by Bourdillon, 31 Oct. 1946, Ibid.

14. The figures were as follows: Chinese: 599,659; Malays: 77,231; Indians: 59,838; Europeans: 14,585; Eurasians: 8,321; Others: 9,582. See Appendix II in V. Purcell, The Chinese in Malaya, (Kuala Lumpur, 1967) p. 296.

15. Lloyd to Gater, 19 Dec. 1946, CO 537/1560 no. 50823/40.

16. Minute by Creech-Jones, 24 Dec. 1946, Ibid.

17. Minute by Lloyd, 2 Jan. 1947, Ibid.

18. Creech-Jones to Gimson, 27 Jan. 1947, Ibid.

Colonial Affairs Committee<sup>19</sup> and the Prime Minister.<sup>20</sup> All that remained were the practical steps that would bring the Legislative Council into operation "with the least possible delay".<sup>21</sup>

The publication of the Committee's report in the Straits Times on 26 September 1946, in the meantime, brought a sharp response from the MDU which expressed disappointment at the whittling down of the number of popularly elected members to only six and strongly objected to the system of privileged representation through the European, Chinese and Indian Chambers of Commerce - organisations which were not only "communal" but also "component parts of the class-partition in the country". Depreciating the choice of personnel for the Committee as being totally unrepresentative, the MDU urged the Colonial Office to reconvene "fully representative Interim Councils" composed of all political parties, trade unions and other public representative bodies to examine the issues involved.<sup>22</sup> The Colonial Office, however, felt that the MDU's views need not be taken too "seriously" since they were written "with no knowledge of the proposal for an unofficial majority."<sup>23</sup> Ignored by the British, the MDU in December 1946 threw in its lot with the Council of Joint Action: instead of co-operation with the Reconstitution Committee, it called for a boycott of the Singapore Legislative Council elections scheduled for 1948.<sup>24</sup>

Also stirred was the Indian Chamber of Commerce which strongly objected to its association with the other two smaller Indian Chambers in the selection of a representative. As both the latter bodies were representing only their own sectional interests, and were also members

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19. CAB 134/52 C (47) 1 (7 Jan. 1947).

20. A. Greenwood to Attlee, 9 Jan. 1947, CO 537/1560 no. 50823/40.

21. Creech-Jones to Gimson, 25 Apr. 1947, CO 537/2137 no. 50823/40.

22. See Lim Hong Bee (Secretary MDU) to Creech-Jones, 5 Oct. 1946, enclosing a copy of MDU "Statement on the Singapore Legislative Council Constitution Committee's recommendations", 3 Oct. 1946, CO 537/1560 no. 50823/40.

23. Minute by Bourdillon, 31 Oct. 1946, Ibid.

24. The MDU had originally wanted to contest the elections but, in the interests of PMCJA-PUTERA solidarity, reconsidered the decision after the MNP announced that it would boycott the elections because it debarred many Malays, who were not British subjects but who had been living in Singapore for many years, from voting. See Cheah Boon Kheng, The Masked Comrades: A Study of the Communist United Front in Malaya, 1945-48, (Singapore, 1979), p. 138.

of the Indian Chamber of Commerce, joint representation, it was felt, was unjust.<sup>25</sup> Its plea that it alone should be granted a seat on the same basis as the European and Chinese Chambers of Commerce was eventually accepted by the Government.<sup>26</sup>

Early in May 1947 a draft election Bill submitted by Gimson<sup>27</sup> was happily pronounced by the Colonial Office as containing "no major snags".<sup>28</sup> The only major departure from usual practice which the Colonial Office noted was its rejection of the system of automatic registration of voters and leaving this entirely to the initiative of potential voters to apply for inclusion in the electoral roll. But given Gimson's explanation that this was inevitable since any other course would have involved "the impossible administrative task of finding out whether each and every qualified adult in Singapore is or is not a British subject", the Colonial Office agreed to "let the point drop"<sup>29</sup> and approved the Bill on 27 May. Gazetted on 4 June, and allowing for a month's discussion, the Bill was finally passed by the Advisory Council on 3 July and effected on 18 July. The registration of voters, which began on 15 August, lasted until 26 September.

If Gimson had expected the introduction of the proposed elections to stimulate "widespread interest and discussion"<sup>30</sup> he was disappointed. The response was discouragingly "sluggish". Although Gimson rationalised that he was "by no means dissatisfied", and that the results were better than he had expected, there was no masking the fact that out of an estimated potential electorate of some 200,000 persons, only 22,395 bothered to register. Even more surprising was the small number of Chinese registered voters - only 5627 or twenty five per cent of the voters. The Indians fared better with 10141 or forty five per cent, whilst the number of Malays, Europeans and Eurasians who registered were 3146 (fourteen per cent), 1918 (nine per cent), and 1563 (seven per cent) respectively.<sup>31</sup>

What the figures glaringly revealed, reflected G. Hawkins, the

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25. R. Jumabhoy to Gimson, 10 Dec. 1946, CO 537/1560 no. 50823/40.

26. Proceedings of the Singapore Advisory Council, 3 Jul. 1947, p.3.

27. Gimson to Creech-Jones, 9 May 1947, CO 537/2137 no. 50823/40. The Bill was drafted by an Election Drafting Committee set up shortly after the publication of the Reconstitution Committee's report. See Report of the Singapore Legislative Council Election Drafting Committee, (Singapore, 1947).

28. Minute by Bourdillon, 10 Jun. 1947, CO 537/2137 no. 50823/40.

29. Ibid.

30. Gimson to Creech-Jones, 9 May 1947, Ibid.

Supervisor of Elections, was that the population was not yet politically conscious: "It is commonly heard that the cause is the usual Malay apathy; rather it is atrophy, atrophy of the spirit of responsibility and civic sense that decayed during the Japanese occupation, and is only now reviving in Trade Unionism, but is not yet vigorous enough to extend to the suffrage." Significantly, the majority of registered voters were Indians and Europeans to whom elections were no novelty. For the Chinese, Hawkins surmised that many "held back warily" partly because of their wartime distrust of putting their names on any official list: "They had filled up forms before and found themselves unexpectedly drafted on some form of forced labour". Others hesitated because of "doubts as to its effect on their status in the country of their origin." Added to these difficulties was the reluctance of many eligible women voters to register, preferring to remain "aloof from the dusty arena of politics."<sup>32</sup> For most, however, registration was in the early stages an "abstraction" that was as "impersonal, bloodless and unattractive as a proposition in Euclid."<sup>33</sup>

A further handicap was the complete absence of political parties in the early stages to stimulate interests. The MDU's call for a boycott "deterred a certain number" but it could also be argued that it had the opposite effect of "awakening interest, and eventually proved a stimulus and positive help".<sup>34</sup> In a leader on 19 September 1947, the Straits Times, for instance, attacked the MDU's boycott as "plain foolishness": "The thing to do is to seize this new political weapon [the Legislative Council], and use it to the fullest possible extent, while at the same

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31. See Report by Hawkins, 16 Apr. 1948, CO 953/1/7 no. 50034/4. Yeo surmised that the most important reason behind Indian electoral interest was probably because the Indian community comprised a substantial body of clerical, mercantile and shopkeeping members and had the highest literacy rate. See Yeo Kim Wah, Political Development in Singapore 1945-55, (Singapore, 1973), p. 257.
  32. Report by Hawkins, "Electoral Registration in Singapore: Factors affecting response of voters", n.d., CO 537/2137 no. 50823/40.
  33. Report by Hawkins, 16 Apr. 1948, CO 953/1/7 no. 50034/4.
  34. Report by Hawkins, "Electoral Reigstration ...", n.d., CO 537/2137 no. 50823/40.

time agitating for an increase in the number of elected members ... One speech in Council is worth a dozen MDU manifestoes."<sup>35</sup> A new political party, the Progressive Party (PP)<sup>36</sup> was formed only on 25 August 1947 - well after registration had started. Although it was fairly successful in getting the names of its likely supporters enrolled, the absence of contending parties dampened interest in the election process. There was, as Hawkins lamented, "no campaign, no canvassing ... no political meetings, no public speeches by which emotions could be aroused". House to house canvassing was ruled out because of expense and also the desire not to compete with the census then in progress. The onus of publicity consequently fell on the Government and its quality was the therefore "non-partisan and consequently less potent. ... It was impossible to dramatise the issue."<sup>37</sup>

Not surprisingly, election day on 20 March 1948 turned out to be a rather "placid" affair with the election fever "bringing no rise in temperature". Earlier on 6 March the European and Chinese Chambers of Commerce had returned unopposed E.M.F. Fergusson and Tan Chin Tuan. The Indian Chamber of Commerce had initially announced an election but later returned unopposed its President, R. Jumabhoy, after the withdrawal of the other candidate. For the main elections, fifteen candidates - five from the PP and ten standing as Independents - contested the six seats.<sup>38</sup> For the Colonial Office, the high proportion of voters polled (sixty three per cent) - after the small number of registration - was "very gratifying".<sup>39</sup> Three seats eventually went to PP candidates whilst the remaining three were captured by Independents. In terms of ethnic composition, three of the elected members were Indians<sup>40</sup> - not surprising as forty five per cent of the registered electorate were Indians. One was British - John Laycock (PP) - and another Malay - Sardon

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35. Straits Times, 19 Sep. 1947.

36. The PP was founded by three lawyers - Singapore-born C.C. Tan, British-born John Laycock and Pakistan-born N.A. Mallal. For discussion, see Yeo, pp. 98-105.

37. Report by Hawkins, "Electoral Registration ...", n.d., CO 537/2137 no. 50823/40.

38. Report by Hawkins, 16 Apr. 1948, CO 953/1/7 no. 50034/4.

39. See1 to Gimson, 10 Apr. 1948, CO 953/1/6 no. 60034.

40. They were N.A. Mallal (PP), S.C. Goho, and J. Namazie.

Bin Haji Jubir.<sup>41</sup> What came as a disappointment was the poor electoral performance of the Chinese candidates. Of the four polled, only one - C.C. Tan (PP) - was elected. Expected to sweep seven out of the nine elected seats in the Legislative Council,<sup>42</sup> the Chinese managed to secure only two, and only one was popularly elected. Given that the Chinese formed about seventy eight per cent of the population of Singapore,<sup>43</sup> the anomaly of their disproportionate representation in the Legislative Council was not lost on Gimson who quickly secured Colonial Office approval for the nomination of three additional Chinese unofficial members.<sup>44</sup> The remaining nominated unofficial seat went to an Eurasian, P.F. de Souza. On 1 April 1948 - the second anniversary of the establishment of Civil Government in Singapore - the newly constituted Legislative Council was finally inaugurated with an unofficial majority.<sup>45</sup> Recognising that Singapore could not be governed without the support of its majority Chinese population, the Colonial Office anxiously urged the Governor to take measures to win their support. The task before the Singapore Government was now "to take the opportunity when it offers of attracting the loyalty of the Chinese population". The Colonial Office, on its part, "shall lend a sympathetic ear to any proposal you may make to this end."<sup>46</sup>

## II

The establishment of the new constitutions in the Federation and Singapore brought to the fore the issue of their eventual union. Singapore's separation was not meant to be permanent. The January 1946 White Paper, for instance, had recognised that "there were and will be close ties between Singapore and the mainland" and it was therefore "no part of the policy of His Majesty's Government to preclude in any way the fusion of Singapore and the Malayan Union in a wider union at a later date should it be considered that such a course were desirable."<sup>47</sup>

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41. Sardon was a former Municipal Commissioner and President of Malay Union of Singapore. For an account of the 1948 elections see Yeo, pp. 260-266.

42. See p. 294 above.

43. See M.V. Del Tufo, Malaya: A Report on the 1947 Census of Population, (London, 1949), p. 40.

44. They were E.R. Koek, Thio Chan Bee and Lim Yew Hock.

45. Gimson nominated only five official members (out of a ceiling of seven) to ensure an unofficial majority. With the addition of the four ex-officio members the "official" presence in the Council numbered only ten (including the Governor) compared to some thirteen unofficials.



In his inaugural address to the Singapore Legislative Council on 1 April 1948, Gimson accordingly mooted the possibility of such an eventual fusion. The presence of the High Commissioner and the members of his Federal Council at the inaugural meeting, Gimson noted, "indicates the close association between the two Governments, and the co-ordination which is necessary if the prosperity of the peoples of Malaya and Singapore is to be fully developed."<sup>48</sup> Separation, however, created a paradox - it made the task of reconciliation even more difficult. In fact, the desirability of some kind of fusion had been considered by officials in London and in Malaya and Singapore throughout the latter half of 1946 and again during the first half of 1947, but, for various reasons, mainly political, no merger was ever effected. These same political considerations were again to rear their heads after April 1948 to thwart the efforts of proponents of merger.

Problems of co-ordination between the two Governments were already evident as early as May 1946. Efforts by Gimson to press for combined departments or common Heads of departments in the two territories during the Governors' conference from 9 to 11 May in Kuala Lumpur, for instance, were consistently rebuffed by Gent who preferred the existence of separate bodies but with some "linking machinery". The appointment of a common Head of department, Gent argued, would be "highly unsatisfactory" since the former, by the nature of his position, could never fully advise him on any course of action required to meet the true interests of his territory in any matter but would be bound to qualify his advice because of his dual responsibility.<sup>49</sup> Although Paskin felt that Gent might perhaps have "gone too far in his 'separatist' tendencies", the Colonial Office thought that this was a matter best resolved by the two Governors themselves. In the meantime, it hoped that MacDonald's presence on the spot would help to smooth matters between the two Governments.<sup>50</sup>

MacDonald fared no better. As his Secretary-General, H.R. Hone, later intimated to Bourdillon, the system of having two separate Governments "cannot work": "The Governor-General usually only gets to

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46. See1 to Gimson, 10 Apr. 1948, CO 953/1/6 no. 50034.

47. See Cmd. 6724, p. 3.

48. Proceedings of the Singapore Legislative Council, 1948-55, (Singapore, 1948-55), p. B7.

49. Minutes of Governors' Conference, 9-11 May 1946, CO 537/1597 no. 52728.

50. Minute by Paskin, 14 Jun. 1946, Ibid.

hear of the trouble ... when it has already been clogging the wheels for several months."<sup>51</sup> So long as the two territories remained divided, MacDonald felt that proper co-ordination was unattainable. Matters were brought to a head by the report of the Reconstitution Committee recommending a "progressive" constitution for the Colony. Such a development, MacDonald feared, might discourage Singapore from a merger with the Federation, widen the growing breach between the two territories even further, and compound the problems of co-ordination. MacDonald consequently proposed at the Governor-General's conference in Penang on 20 and 21 August 1946 that an early examination of the merger question was essential and suggested that an informal committee should be appointed immediately. Though Gimson supported MacDonald's initiative, Gent - then engaged in sensitive negotiations with the Malays - strongly demurred. Arguing that the economies of the two territories were different, and rehearsing familiar arguments of Singapore's economic domination, Gent asserted that they should be allowed to develop "on their own lines". In reply, McKerron argued that the economies of Singapore and the Mainland were not different but in fact complementary. Singapore, for instance, was the "natural port of Malaya and it was only an accident of nature which divided it from the Peninsula." What proved decisive were the political arguments. As Newbould warned: if it became known that merger was being contemplated, the Anglo-Malay negotiations, then in progress, would almost certainly "break down and a charge of 'bad faith' might again be made."<sup>52</sup>

The Colonial Office agreed. Besides amounting to a "reversal of policy", merger would also disturb "to an extent which we could not foresee, the constitutional discussions now proceeding in the Malayan Union". Minuted Bourdillon:

I think it would be a thousand pities if we held up sound and progressive developments in Singapore, merely on account of the problematical effects of these developments on the future relations of the two territories. Such delaying tactics would achieve no purpose, and would certainly create the impression in

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51. Bourdillon to Paskin, 8 Mar. 1947, CO 537/2141 no. 52243 Pt I.

52. Minutes of Governor-General's conference, 20-21 Aug. 1946, CO 537/1598 no. 52728/2A.

Singapore that HMG did not know its own mind and had no fixed policy.<sup>53</sup>

Any delay, as Bourdillon later added, could also be potentially dangerous "in view of other events in the Far East, including Burma".<sup>54</sup> Bourdillon's arguments proved persuasive. As Creech-Jones remarked; "[W]e cannot deny Singapore a liberal constitution."<sup>55</sup>

Interest in merger, however, revived in mid-December 1946 with the formation of the Council of Joint Action which placed fusion in the forefront of its programme. By then, the Anglo-Malay Working Committee had also completed its deliberations and submitted its proposals. MacDonald, accordingly, felt that another initiative was opportune and raised his proposal of a joint committee once again at the Governor-General's conference in Penang on 19 January 1947. Gent's response, again, was unenthusiastic: popular opinion in the Peninsula might well argue that fusion was a matter which should not be considered until after elections had been held so that those who joined in the consultations could claim to be representative of popular opinion in the Mainland. Gimson, however, drew attention to the "very strong feeling" in Singapore for merger and warned that any delay might create the impression that fusion would be held up indefinitely. To an inquiry by MacDonald, both Governors replied that their new constitutions could not possibly be inaugurated before 1 January 1948 - this meant, in effect, that any suggested link-up of the Island with the Mainland could only be achieved, at the earliest, by mid-1948. Gent was less hopeful: as some "hard bargaining" was in order, it would be unwise to "hurry unduly this development". At MacDonald's recommendation, both Governors eventually agreed that, as a temporary measure, a declaration of HMG's intention to set up machinery at a fairly early date to consider the merger issue was politically expedient and "would take a great deal of sting out of the present agitation of the Council of Joint Action". The conference agreed that the Governor-General should prepare a draft telegram on the subject to the Secretary of State for the consideration of the two Governors.<sup>56</sup>

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53. Minute by Bourdillon, 27 Sep. 1946, CO 537/1560 no. 50823/40.

54. Minute by Bourdillon, 31 Dec. 1946, *Ibid.*

55. Minute by Creech-Jones, 30 Sep. 1946, *Ibid.*

56. Minutes of Governor-General conference, 19 Jan. 1947, CO 537/2165 no. 52738/1.

As no action on the draft statement transpired for nearly a month, Gent decided to query MacDonald on 16 February. The Governor-General replied that subsequent discussions with Newbould, O'Connor and Linehan had alerted him to the dangers of rushing the fusion question and he had consequently done nothing more for the moment. But if Gent felt that some progress could be made, he was very much in favour of an early statement since otherwise HMG might appear "to be pushed reluctantly into the right policy later on as a result of agitation." His only worry was that a pronouncement at the present time might "cause a little difficulty" with the Malays since the submission of the Consultative Committee's report towards the end of March would inevitably open up the constitutional issue once again.<sup>57</sup> Gent entirely agreed that the timing was "not ripe": the Malays would almost certainly "be so disturbed and suspicious that they might down tools altogether."<sup>58</sup>

Not all shared these anxieties. A report by Ivor Thomas, the Under-Secretary of State for the Colonies, who visited Malaya from 9 to 16 February 1947 on his return from the South Seas Conference at Canberra, for instance, urged the immediate inclusion of Singapore in the Federation. Otherwise, Thomas feared that the subject would become a nagging source of controversy until fusion was finally effected. Singapore's separation, he reported, had been "strongly denounced by many with whom I spoke and it was admitted by all that eventually it must be included in the Federation":

I presumed at first that there must be a military reason for the separation, but this does not appear to have been suggested. The argument that it is the different character of Singapore's trade convinces no one, and in any case the trade of Singapore is not fundamentally different from that of Penang.

The real reason, Thomas surmised, was "presumably the predominantly Chinese character of the population of Singapore" but here Thomas observed that, in his talks with the Malays, no one suggested that Singapore should be excluded. Although this was not "conclusive evidence",

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57. Gent to MacDonald, 16 Feb. 1947, MacDonald Papers 16/7.

58. MacDonald to Gent, 19 Feb. 1947, Ibid.

Thomas suggested that this was probably quite near to the truth since "if there had been any real hostility to the inclusion of Singapore I should have expected to have heard of it."<sup>59</sup>

The reasons for merger were consequently considered afresh by Bourdillon on 8 March. Judging from Thomas' recent report, the strongest reason, Bourdillon surmised, appeared to be the lack of deep Malay political opposition to any constitutional union. Administratively, co-ordination would be enhanced. Financially, the maintenance of two separate Governments was also a "waste of money".<sup>60</sup> Despite these "weighty reasons" Lloyd judged that HMG would stand to lose more than it should gain by supporting merger. As he counselled the Colonial Secretary: "I feel that if either you or the authorities in Malaya were now to show publicly any anxiety to secure the early admission of Singapore ... what we should stand to lose in the way of antagonising Malay opinion would more than offset anything that could be gained by the show of urgency." Timing, Lloyd added, was all important and here the Colonial Office should be guided by the views of the officials on the spot.<sup>61</sup> With Attlee's support, Creech-Jones concurred: "[W]e must try to get Malaya cleared up ... before relinking Singapore".<sup>62</sup> But expecting Parliamentary interest in the fusion issue when the full constitutional proposals were finally debated in the House, Creech-Jones was also won round to the desirability of some official pronouncement on the subject along the lines suggested by MacDonald during his conference on 19 January.<sup>63</sup>

In the meantime, the merger question had also been briefly considered by the Consultative Committee in its report to the Governor on 21 March. Though the subject was not strictly within its terms of reference, the Committee, which had received several representations on the issue, made two recommendations: (1) fusion should not be considered unless Singapore applied for inclusion in the Federation; and (2) the Federal Council in Kuala Lumpur would then consider its application.<sup>64</sup>

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59. Report by Thomas, 22 Feb. 1947, CO 537/2175 no. 52784.

60. Bourdillon to Paskin, 8 Mar. 1947, CO 537/2141 no. 52243 Pt I.

61. Lloyd to Creech-Jones, 13 Mar. 1947, Ibid.

62. Minute by Creech-Jones, 18 Mar. 1947, Ibid.

63. Creech-Jones to MacDonald, 18 Mar. 1947, Ibid.

64. Malayan Union, Constitutional Proposals for Malaya: Report of the Consultative Committee together with proceedings of six public meetings, a summary of representations made and letters and memoranda considered by the Committee, (Kuala Lumpur, 1947), pp. 12-14.

Both recommendations were subsequently included in a draft statement which MacDonald was then preparing for the Secretary of State's use in Parliament and which strongly advocated that, on the merits of the case, it was desirable for Singapore to be included in the Federation. The draft acknowledged, however, the nervousness of sections of opinion in the Peninsula to suggestions of merger and warned against the unwisdom of forcing the issue on an "unwilling Federation". Turning to the Consultative Committee's recommendations, which it generally concurred, the draft felt that (2) was wrong if it meant that the Federal Council could turn down Singapore's application "out of hand". Any application from Singapore should be considered by the Federal Council with a view to the appointment of a joint working committee to consider the subject.<sup>65</sup>

Shown a copy of MacDonald's draft, Gent wanted it revised to reflect "full safeguards" against the restoration of Singapore's pre-war predominant influence in Malayan affairs in any subsequent merger with the Federation. Gent insisted that union should be made "conditional" on the acceptance of this safeguard and that Kuala Lumpur should remain as the administrative capital. This meant, in practice, that Singapore could only be federated "as one Settlement in group of twelve units" - a prospect Gent was not hopeful that Singapore would accept: "We doubt if Singapore is yet reconciled to solution on those lines."<sup>66</sup> He was right. Predictably, Gimson strongly dissented and urged instead that Singapore be made the capital of the Federation: "I think that the Malays would benefit by recognising the economic domination of Singapore and seeking to participate in this position. If they are going to isolate themselves in the Peninsula, Singapore will be left to be exploited either by the Chinese or possibly by the Indians ... Whereas, if the Malays were prepared to associate themselves with other races in S.E. Asia to promote the economic and political unity of that area, they are much more likely to safeguard their own interests in it." Gimson wanted the draft to reflect also the strength of feeling in Singapore against the constitutional division which had been imposed "without its consent".<sup>67</sup> As the proposal to make Singapore a "supplicant" was also opposed by Gimson, the draft was further amended to permit either Government the freedom to suggest merger while reserving the question of machinery for the joint consideration of both Legislatures. The final

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65. Draft telegram from MacDonald to Creech-Jones, n.d., MacDonald Papers 16/3. (possibly 11 Apr. 1947)

66. Gent to MacDonald, 18 Apr. 1947, MacDonald Papers 16/8.

67. Gimson to MacDonald, 22 Apr. 1947, MacDonald Papers 16/3.

draft, which was approved on 26 April<sup>68</sup> and despatched to Creech-Jones two days later,<sup>69</sup> accepted Gimson's representations that merger was desirable sooner rather than later but also assuaged Gent's feelings by reiterating that it would be a "mistake" to formally reopen the subject before the inauguration of the new constitutions in the Federation and Singapore.

Distracted by more pressing constitutional matters at hand, no major development however transpired until early 1948.<sup>70</sup> With the inauguration of the Federation on 1 February 1948 and the Legislative Council in Singapore on 1 April, interest in merger revived. In the Singapore Advisory Council on 4 March, Thio Chan Bee, for instance, raised the question of a "Confederation of Malaysia" comprising the Federation, Singapore and the Borneo territories.<sup>71</sup> Welcoming the motion, Gimson reiterated that, as a first step, efforts should now be directed at securing a fusion of the Island with the Mainland. Gimson's concern was partly heightened by fears - confirmed also in his conversations with Braddell - of a growing undercurrent of opinion in Singapore opposed to merger and which felt that Singapore should develop separately as a Colony.<sup>72</sup> The position, as Braddell had warned, was "exceedingly dangerous" and could seriously affect Britain's position in South East Asia. Braddell, Gimson noted, had further intimated that Dato Onn was strongly in favour of the early fusion of the two territories since he realised that if Singapore was allowed to develop separately, the Island would become more and more predominantly a Chinese Settlement with allegiance to China and not to Britain.<sup>73</sup> Writing to Lloyd on 17 March, Gimson consequently urged him to regard the matter as of "first-class importance".<sup>74</sup>

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68. Minutes of Governor-General conference, 26 Apr. 1947, CO 537/2167 no. 52738/3.

69. MacDonald to Creech-Jones, 28 Apr. 1947, CO 537/2137 no. 50823/40.

70. Apart from a non-committal reply to a Parliamentary question on 18 Jun. 1947 and a brief statement in the new White Paper (Cmd. 7171) published in Jul. 1947, no authoritative response was forthcoming from either London or the local Authorities.

71. Proceedings of the Singapore Advisory Council (Extraordinary Private session), 4 Mar. 1948, in CO 537/3669 no. 52243/14.

72. Memo. by Gimson, 8 Mar. 1948, Ibid.

73. Ibid.

74. Gimson to Lloyd, 17 Mar. 1948, Ibid.

The Colonial Office accordingly raised the issue with MacDonald, then in London for consultations, on 16 April. Lloyd observed that one of the difficulties was the problem of getting either side to take the initiative since neither party would want a possible rebuff. MacDonald explained that Gent's difficulty was that the Malays were firmly opposed to a Chinese majority in the Councils of any Federation that might include Singapore and it would be fatal to proceed before it could be ascertained that Dato Onn in fact was ready to support any such initiative or the people of Singapore ready to accept them. To meet Singapore's pride, Seel mooted the possibility of some version of a "super-Federation" which would admit Singapore as an equal partner. MacDonald, however, surmised that this would be unacceptable to Gent while the counter-proposal that Singapore should become the twelfth member of the Federation would also not commend itself to Gimson. The only practicable course was the formation of a joint committee as MacDonald had earlier suggested.<sup>75</sup>

On his return, MacDonald discussed his plans with both Gent and Gimson. Both the High Commissioner and the Governor held irreconcilable views on the way in which the possible fusion of their territories could be broached. Gent urged that it was imperative to keep the confidence of the Rulers and that they should be approached in the first instance. MacDonald, however, was wary of referring the matter to the Rulers who might put an "entirely wrong complexion ... and create suspicion and hostility in the minds of Dato Onn and his supporters" and suggested that UMNO instead should be approached first. Though not discounting informal and confidential approaches to Dato Onn, Gent reiterated that any official moves must secure the Rulers' acquiescence. To a further suggestion by MacDonald of confidential exploratory talks by selected officials, Gent remarked that this would be "most unwise" if it was discovered by the Malays that British officials were engaged in making plans for a highly important amendment of the Federation Agreement behind their backs. Gimson, on his part, felt that an initial discussion with the Rulers might also leak out and place him in a difficult position with his unofficials. To a suggestion by Gimson that Dato Onn had indicated to Thio Chan Bee that UMNO would not object to merger, Newbould cautioned that Dato Onn favoured merger only if Singapore entered the

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75. Minutes of discussion in CO, 16 Apr. 1948, Ibid.



Federation on his own terms. After further discussion it was decided that the question of initial procedure should be examined by a small committee consisting of Newbould, McKerron and Hone.<sup>76</sup>

But before the subject could be explored any further, the Emergency<sup>77</sup> broke out in Malaya in June 1948. Any hope of a constitutional union dissipated when Dato Onn asserted that "there could be no question of Singapore coming into the Federation and aggravating the already considerable Chinese problem [there]."<sup>78</sup> Except for a brief period between 1963-65 when Singapore was merged with the Federation, the Island's separation from the Peninsula was to remain the surviving legacy of the British experiment to create a new order in post-war Malaya.

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76. Minutes of conference, 10 May 1948, Ibid.

77. For a good treatment of the Emergency in Malaya, see A. Short, The Communist Insurrection in Malaya 1948-1960, (London, 1975).

78. Minute by Morris, 4 Jan. 1949, CO 537/3669 no. 52243/14.

## CONCLUSION

Historians of the Malayan Union have often associated Edward Gent as the official principally responsible for the Colonial Office's new Malayan policy.<sup>1</sup> It is true that even before the war Gent had already favoured some form of closer union of the Malay States. Later, as Head of the Eastern department, Gent certainly had a major role to play in the policy-making and approving the Malayan Union policy worked out by his department. But, as we have seen in Chapter Two, Gent's recommendations for a "closer union" in July 1942 and his subsequent proposal for a "Federation" in March 1943 could hardly qualify either as original or be perceived as representing a definite break with the past. Indeed, the evidence suggests that Gent only initiated his scheme for a "closer union" of all the British territories in South East Asia - a conception already envisaged by Clementi in the 1930's - in response to Cranborne's authorisation to come up with a policy that would assist the Malay States "to stand on their own feet in the modern world".<sup>2</sup> When Gent in March 1943 crystallised his thoughts on the nature of the "union" that he envisaged, it was to the "Federation" model that he turned - not "Union".<sup>3</sup> Even so, the original conception of a Malayan "Federation" and a separated Singapore came essentially from McKerron and Day - not Gent.<sup>4</sup>

In emphasising the role of Gent, the main studies on the Malayan Union have almost completely neglected the pivotal role of "outsiders" like Lord Hailey and Hone in determining the character of the eventual policy. It was Hailey whose backing for the new policy contributed to its acceptance by the Secretary of State. The political imperative of wresting jurisdiction from the Rulers and the desirability of using the

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1. See Introduction.

2. See Chapter 2, p.50.

3. It is true that in his memo. of 28 Jul. 1942, Gent advocated the creation of a "Malayan Union" but it is unlikely that any constitutional significance was intended for the term was used to embrace his envisaged "union" of all the British territories in South East Asia. As he put it, such an amalgamation might "need a different name". See memo. by Gent, 28 Jul. 1942, CO 825/35 no. 55104.

4. See Chapter 2, p. 57.

period of the military reoccupation as a pretext for sustaining that end were again essentially Hailey's ideas. It was left to Hone to suggest the need for a "cut-and-dried" scheme and the exigency of employing pressure - if necessary - to coerce the Sultans to sign on the dotted line during the period of the military administration when Britain wielded temporary jurisdiction. It was also Hone who argued against "Federation" and pressed for "Union".<sup>4</sup> The conception of the Malayan "Union" was, therefore, essentially Hone's creation. Interviewed after the war by the official historian, F.S.V. Donnison, Hone, however, disclaimed any major role in the planning of the ill-fated Malayan Union policy. The constitutional plans, he asserted, "were evolved in CO largely by Gent ...".<sup>5</sup> In the light of documentary evidence to the contrary - and which in fact confirmed Hone's key role in the planning of the Union policy - his disclaimer would indeed seem very surprising.<sup>6</sup>

The Cabinet paper drawn up towards the end of August 1943 suggested that "efficiency" and "security" were the prime motivations behind the Colonial Office's policy for a closer integration of the Peninsula States.<sup>7</sup> Both rationalisations, however, were not entirely peculiar to the Malayan Union policy. The motivations for the Federation scheme in 1895 had also been justified on the need for "greater efficiency" and the desirability of "one territory and a single force" for defence purposes.<sup>8</sup> What is perhaps more relevant is the difference in emphasis that had been placed on both factors during the pre-war and wartime planning for a "closer union". Whereas pre-war "union" schemes had been principally rationalised on the need for administrative and economic "efficiency"<sup>9</sup> - which would be understandable in the light of Malaya's rapid economic development during the inter-war period - "security" considerations loomed large in the initial planning for the Malayan policy during the war. All the Colonial Powers "fell down over the question of defence", minuted Gent, "and that is the primary matter to be remedied".<sup>10</sup> The establishment of a co-ordinated post-war collective

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4. See Chapter 2, pp. 71-73.

5. "Note of conversation with Sir Ralph Hone", n.d., CAB 101/66 B/4/7.

6. Of course, it is possible that Hone wanted to distance himself from the Union policy after it had gone so badly wrong.

7. See Chapter 2, p. 74.

8. See CO memo., 19 May 1893, CO 273/183, printed in J. de V. Allen, A.J. Stockwell, and L.R. Wright, A Collection of Treaties and other Documents Affecting the States of Malaysia 1761-1963, II (London, 1981), p. 43.

security system in the region, on the other hand, required, as an essential prerequisite, the revamping of Malaya's divisive administrative and political structures as well as the assumption of "full rights" on defence questions.<sup>11</sup> For Britain to successfully "play our part" in contributing to the "establishment of greater strength and cohesion"<sup>12</sup> within the regional defence system, a united and defensible Malaya was therefore indispensable - as well as the underpinning need for the possession of the "fullest measure of internal responsibility" in the Malay States.<sup>13</sup> If security reasons were the "first and foremost" determinant in British wartime planning for the region,<sup>14</sup> it would not be entirely inconsistent to argue that strategic considerations in fact significantly - if not principally - influenced the initial motivations for the planning of the new Malayan policy.

It would seem, therefore, that strategic and power considerations - rather than, as Allen suggested, British preoccupation with the "idea of preparation for self-government"<sup>15</sup> - principally motivated the planning for the Malayan policy. It is noteworthy, in this connection, that no reference to "self-government" was included either in Gent's memorandum of 28 July 1942 - in which the case for a "closer union" was argued by him for the first time - or in Monson's notes of 9 March 1943 - in which he recorded the Eastern department's decision of 4 March to proceed with the plans for a comprehensive "Federation" excluding Singapore. References to "self-government" became more evident in the Colonial Office's constitutional documents on Malaya only after Hailey's memorandum of 19 April 1943 and by 13 May 1943, it became a stated goal in the planning of the Malayan policy. To the extent that "self-government" was a declared long-term goal of British colonial policy<sup>16</sup> it

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9. See Memo. by Clementi, 22 Dec. 1931, CO 717/88.

10. Minute by Gent, 20 Aug. 1942, CO 825/35 no. 55104.

11. See Chapter 2, p. 74.

12. Minute by Gent, 20 Aug. 1942, CO 825/35 no. 55104.

13. "A post-war settlement in the Far East: Need for a definite policy", (Sep. 1942), Ibid.

14. Minute by Gent, 20 Aug. 1942, CO 825/35 no. 55104.

15. J. de V. Allen, The Malayan Union, (New Haven, 1967), p. 8.

16. On 13 Jul. 1943, for instance, Stanley announced in Parliament that Britain would fulfil her "pledge" as soon as practicable to develop "self-government" in her colonial territories. Parliamentary Debates, H.C., 13 Jul. 1943, Col. 48.

remained an ideological and a moral factor in all British constitutional planning for her dependent territories. But, as the Colonial Office repeatedly pointed out, the phrase, properly employed, "clearly cannot be applied to the Malay States" which were, in actuality, legally sovereign political entities. The loose application of the "vocabulary" of self-government to the Malay States, reminded Monson, therefore, "requires watching".<sup>17</sup> Indeed, the evidence suggests that the Colonial Office, instead of being motivated principally by the ideal of self-government, argued otherwise for the need for more assertive British rule. It is, of course, plausible, as Sopiee argued, that the Colonial Office might have felt that it first "had to colonize in order to decolonize"<sup>18</sup> - a premise certainly hinted at by Hailey in his memorandum of 19 April - but it was also clear that the British were determined to remain in Malaya for a long time. Thus, as Hone put it, the day when Malaya becomes self-governing "must be far distant".<sup>19</sup>

It would seem perhaps more plausible to argue that the "vocabulary" of self-government afforded the Colonial Office an expedient tactical device to assuage the expected stream of criticisms that would arise upon its assumption of more definite powers. Even Hailey, in developing the "self-government" principle in relation to the Malayan policy, saw its immediate relevance in terms of making the new proposals sufficiently "forward looking" in order to appease the United States.<sup>20</sup> The Foreign Office, on its part, consistently called on the Colonial Office to "play up" the self-governing aspects of the new policy. To Hailey and Hone, the use of the term also afforded an important apologetic for the assumption of "ultimate jurisdiction" by HMG - for it could then be argued that, without such a grant of jurisdiction, HMG would not be in a position to ensure either a uniform system of rule or to curb the autocratic rule of the Sultans, or even confer citizenship rights on deserving members of the immigrant communities, all of which would be necessary if Malaya was to become a self-governing political unit. For the policy to be acceptable to the more liberal members of the War Cabinet -

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17. Minute by Monson, 24 Aug. 1942, CO 825/35 no. 55104.

18. Mohamed Noordin Sopiee, From Malayan Union to Singapore Separation: Political Unification in the Malaysia Region 1945-65, (Kuala Lumpur, 1976), p. 16.

19. Memo. by Hone, 28 Jul. 1943, CO 825/35 no. 55104/1.

20. See Chapter 2, p. 64.

for instance, Attlee<sup>21</sup> - such tactical progressivism was also essential. Indeed, once the Colonial Office accepted Hailey's, and later Hone's, arguments for more direct British rule, the "vocabulary" of self-government could no longer be conveniently dismissed as inapplicable. If Britain had decided to colonise the Malay States, she must also indicate her intention to decolonise.

The finality of the jurisdiction which the Colonial Office sought - including control over Malay religion and custom - could be looked at from two complementary perspectives. Firstly, there may have been, as Soviee asserted, no expressly anti-Malay feelings among the planners in Whitehall,<sup>22</sup> but there was nevertheless a noticeable undercurrent of festering disillusionment with the "facade of Sultan rule" and the desirability of negotiating new Treaties that would "destroy their independence".<sup>23</sup> Related to the latter perception was the belief that the Sultans in the future must be made to become "harmless puppets"<sup>24</sup> in order to circumscribe their ability to undermine the overriding objectives of union and common citizenship. So long as the Sultans remained sovereign, the Colonial Office recognised that opportunities for "obstructions" existed and that the "guarantee" which it sought for its policies would remain forever elusive. The MacMichael Treaties, in this sense, were imperative and the evidence suggests that any Ruler who refused to sign on the dotted line, as MacMichael himself admitted,<sup>25</sup> would forfeit recognition by HMG. If this measure proved insufficient to enforce the conclusion of the Agreements, it was likely that a "[s]imple annexation of the whole territory" would be attempted although the Colonial Office, admitting that this course would be open "to numerous and obvious disadvantages", hoped that such a "show of force" would not arise.<sup>26</sup> In the end this proved unnecessary but the MacMichael episode

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21. See Chapter 4.

22. Soviee, p. 18.

23. See Chapter 2, p. 65; see also memo. by Hone, 28 Jul. 1943, CO 825/35 no. 55104/1.

24. Gater to Stanley, 19 May 1943, CO 717/147 no. 52001/1, cited in A.J. Stockwell, British Policy and Malay Politics During the Malayan Union Experiment, 1942-1943, (Kuala Lumpur, 1979), p. 32.

25. See Chapter 5. p. 138.

26. Minute by Bourdillon, 6 Sep. 1945, CO 273/675 no. 50823.

was to become a controversial thorn in the side of Anglo-Malay relations.<sup>27</sup>

If the war had led to a reorientation of Anglo-Malay relations it had also precipitated a shift in British policy towards the Chinese. Planning for Malayan Union Citizenship, as we have seen in Chapter Three, was principally motivated by British perception of the "Chinese factor". The Colonial Office anticipated that in Malaya the problem for Britain after the war was likely to arise not primarily from Malay nationalism which - judging from pre-war perceptions - was diffused and disunited, but from the claims of the Malayan Chinese to political rights in view of their numerical strength, economic power and political organisation - a claim which HMG could not ignore given the wartime sacrifices of the Chinese and the probable emergence of, and the political pressure exerted by, a strong KMT China as a major regional power in post-war South East Asia. The Colonial Office consequently devised, and secured Cabinet sanction, for a new policy that would anticipate, rather than be induced by, Chinese post-war demands for Malaya - a policy which correspondingly, and necessarily so, detracted from the pre-war policy that favoured the Malays.

These assumptions, however, were overturned by post-war developments. Contrary to British planning perceptions, a united Malay nationalism emerged after the war to challenge the logic of the British Malayan Union policy. The British were subsequently induced to enter into negotiations, at first exclusively, with the Malays in order to ensure that Malay opinion, so far moderate, would not become anti-British and follow the example of their brethren in Indonesia who were in open and armed resistance against the Dutch. Assumptions about the Chinese were also proven wrong. Contrary to British perceptions, the citizenship proposals evoked only lukewarm interest from the Chinese;<sup>28</sup> a united and strong KMT Government also did not materialise in China. Instead, the KMT was embroiled in a civil war with the Chinese Communists. Confronted with the uncertain situation in China<sup>29</sup> and the serious challenge mounted

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27. See Chapters 7 to 9.

28. See Chapter 6.

29. Malayan officials were worried about the possible repercussions of events in China on Malaya, historically susceptible to such influences. As E.D. Fleming, the Acting Secretary for Chinese Affairs, Malayan Union, observed: "Government in China did not appear to be very strong at the moment; they were losing their war against the Communists and if the KMT Government in China went out, then the KMT in Malaya would be correspondingly reduced in power". See minutes of Conference chaired by MacDonald, 26 Jun. 1947, Dalley Papers.

by the MCP, the British saw for the first time the importance of a local base of mass support to underpin their regime in Malaya - a base they found in the Malays who were less susceptible to the ideological pull of Communism. As Bourdillon minuted:

Even if every China-man in Malaya came out against the Federation, it would still be possible to build something on the basis of the Malays alone since they, after all, are the people of the country; but if representative Malay political thought is forced into channels of 'pan-Indonesian' (and anti-European development ... we might as well clear out of Malaya tomorrow.<sup>30</sup>

The British consequently accepted the Federation proposals which retracted some of the liberal political rights given to the Chinese.<sup>31</sup>

Singapore's separation from the Mainland was principally motivated by the desire to remove obstacles to the Colonial Office's "foremost" objective of a constitutional union of the Peninsula States. To the Colonial Office this was the "first stage" that would provide the essential basis for any future union of the other British territories - and therefore an "almost overriding argument".<sup>32</sup> Contrary to Allen's surmise that "strategic reasons were almost certainly the most important factor in deciding the future of Singapore",<sup>33</sup> the evidence suggests that the Colonial Office in fact had reservations about Singapore's post-war strategic significance. As Gent argued:

It is not clear whether this dictum on the post-war strategical value of Singapore is based on responsible Service advice. There are some who doubt whether the capital ships, for which Singapore alone in the area was equipped to provide repair and shelter facilities, can in the future be assumed to be the essential nucleus of a naval system of defence in the Indian and Pacific Oceans. Long range

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30. Minute by Bourdillon, 18 Sep. 1947, CO 537/2146 no. 52242/3 Pt II.

31. See Chapter 9.

32. See Chapter 2, p. 78.

33. Allen, p. 26.



aircraft carriers and land based aircraft may, some think, reduce the pre-war outstanding significance of Singapore from a naval point of view.<sup>34</sup>

Strategic considerations were significantly omitted from the rationalizations for the separate treatment of Singapore in the Cabinet paper of August 1943,<sup>35</sup> though, in June 1944, Stanley raised the subject of Singapore's strategic value in an effort to persuade Mountbatten to withdraw his objection to the Island's separation. "I should have thought too", Stanley surmised, "that such an exclusion would be likely to be desirable in view of the special reservation of military control which you may think it necessary to maintain in the case of Singapore for a prolonged period as a defence base."<sup>36</sup> Though pointing towards the administration of the Island as a separate regime, Singapore's "unique strategic position", nevertheless, was "not in itself conclusive" as a factor for exclusion.<sup>37</sup>

The Colonial Office saw instead the "divergence of economic interest" between the Mainland and Singapore as an obstacle towards union:<sup>38</sup>

Economically, Singapore has special interests distinct from those of the Malayan mainland. The prosperity of the Peninsula depends on primary production; that of Singapore depends upon its entrepot trade. Moreover, 90% of this entrepot trade is connected with the outside world ... and only 10% with the Malayan mainland. It might be felt that this diversity of economic interest is an argument for including Singapore in the Union, since it would broaden the economic basis of the Union as a whole; but the fact is rather that the economic interests and outlook of Singapore and the mainland are so divergent as to be likely to create friction if the two entities are combined at this stage in a single political grouping.<sup>39</sup>

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- 34. Gent to Ashley Clarke, 7 Aug. 1942, CO 825/35 no. 55104.
  - 35. "Future Constitutional Policy for British Colonial Territories in South East Asia", 31 Aug. 1943, CO 825/35 no. 55104/1.
  - 36. Stanley to Mountbatten, 13 Jun. 1944, WO 203/5612 no. 1454.
  - 37. Minute by Bourdillon, n.d. (possibly Aug. 1945), CO 825/42 no. 55104.
  - 38. "Future Constitutional Policy for British Colonial Territories in South East Asia", 31 Aug. 1943, CO 825/35 no. 55104/1.
  - 39. Minute by Bourdillon, n.d. (possibly Aug. 1945), CO 825/42 no. 55104.

A more important reason, which received some discussion in the Colonial Office, relates mainly to the question of "Government from Singapore", which, argued McKerron, "is the very thing we are trying to avoid by separating the administration of the Island from that of the Mainland".<sup>40</sup> As Bourdillon added:

The more important point is a psychological one. If Singapore is included in the Union from the outset ... it will establish itself as the centre of Union affairs. ... The Malays would have the sensation, which they have felt and resented in the past, of being governed from an alien city. If, however, Singapore is in the early stages excluded from the Malayan Union, and if the centre of the Union is placed at Kuala Lumpur in the Malay States, the co-operation of the Malays in making the Union a reality will be much easier to obtain.<sup>41</sup>

The "strongest argument"<sup>42</sup> for Singapore's exclusion, however, was race. Contrary to Turnbull's assertion that "The British were not concerned at this stage with questions of racial balance",<sup>43</sup> the Cabinet paper observed that Singapore "possesses special political features, due to the predominantly Chinese nature of its population which would make it difficult of assimilation into any Pan-Malayan Union."<sup>44</sup> That this was indeed the main consideration for Singapore's separation was later confirmed by Bourdillon:

Singapore, with its 700,000 inhabitants, is almost entirely a Chinese city. The aggregate of the population of Malaya is made up in almost equal proportions of Malays and Chinese, but the population just tips the balance in favour of the latter. ... Our new policy for Malaya means the opening to the Chinese of many doors which have hitherto been closed to them. They are to be admitted to citizenship on equal terms with the Malays ... This policy will in any case

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40. Memo. by McKerron, 17 Aug. 1943, CO 825/35 no. 55104/1.

41. Minute by Bourdillon, n.d. (possibly Aug. 1945), CO 825/42 no. 55104.

42. Memo. by Hailey, 19 Apr. 1943, CO 825/35 no. 55104/1.

43. C.M. Turnbull, A History of Singapore 1819-1975, (Kuala Lumpur, 1977), p. 220.

44. "Future Constitutional Policy for British Colonial Territories in South East Asia", 31 Aug. 1943, CO 825/35 no. 55104/1.

cause anxiety amongst the Malays ... we must  
/therefore/ be careful not to create a  
 situation in which the Malays are dispirited and  
 antagonised, and it can readily be seen how  
 fundamental a difference the inclusion or  
 exclusion of Singapore may make in their  
 attitude.<sup>45</sup>

The settlement in 1948 reflected this racial compromise. Whereas the Malays would have a majority of unofficial members in the Federal Legislature, the proposals for Singapore envisaged a majority of Chinese unofficals in the Legislative Council. While reaffirming the pre-war "pro-Malay" policy in the Federation, the British, at the same time, implicitly recognised that Singapore should hitherto develop as a Chinese enclave. In retrospect, the formula succeeded only too well.

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45. Minute by Bourdillon, n.d. (possibly Aug. 1945), Ibid.  
 It is interesting to note that a CO paper in 1953, commenting retrospectively on the separation of Singapore, gave only one reason for its detachment: "Singapore was excluded because its addition, with such a large Chinese population, would have made the Union unacceptable to the Malay population of the mainland". See "Political objectives in British territories of South East Asia", 10 Mar. 1943, CO 1022/91. I am grateful to Professor Yeo Kim Wah for pointing out this reference to me.

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- CO 323 Colonies, General: Original Correspondence.
- CO 537 Colonies, General: Supplementary, Original Correspondence.
- CO 717 Federated Malay States: Original Correspondence.
- CO 825 Eastern: Original Correspondence.
- CO 865 Far Eastern Reconstruction: Original Correspondence.
- CO 875 Public Relations and Information: Original Correspondence.
- CO 953 Singapore: Original Correspondence.
- CO 1022 South East Asian Department: Original Correspondence.

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- FO 371 General Correspondence: Political Departments.

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